

**STATEMENT OF FINDINGS
AND
FINDINGS OF NO SIGNIFICANT IMPACTS**

(File No. 2004001142)

Applicant: MEJ Properties, LLC (DBA Choto Marina)

**EXISTING FLOATING DOCKS AND PROPOSED COMMERCIAL MARINA EXPANSION
AT MILE 612.5, RIGHT BANK, TENNESSEE RIVER,
IN KNOX COUNTY, TENNESSEE**

**U.S. ARMY CORPS OF ENGINEERS
Nashville District, Regulatory Branch**

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1 June 2005
Date

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1.0 Proposed Action

1.1 Project Purpose. The existing and proposed work would expand an existing commercial marina operation in the Choto Cove area of Fort Loudoun Reservoir.

1.2 Initial Proposal. The initial proposal was described in detail in Joint Public Notice (JPN) 04-48, dated 29 July 2004 (Enclosure 1). In brief, Choto Marina (Choto) proposed to expand marina facilities and harbor limits. Choto also sought after-the-fact approval for floating dock segments that existed partially assembled on site in temporary locations but that would be moved to locations where new floating docks would be constructed and used as elements of those docks.

1.3 Final Proposal. Plans evolved numerous times since July 2004. In mid April 2005, prior to obtaining the required DA permit, Choto began the construction of the ship store and fuel dock and resumed construction of some of the partially built docks that were in temporary locations in the marina. A total of 12 slips were moved into position and connected to the existing docks. Six slips (Existing "D" Dock Extension) were added at the east end of existing "D" Dock and three slips (Existing "E" Dock) were added at the east end of the six new "D" slips. Finally, three slips (Existing "J" Dock Extension) were added at the east end of existing "J" Dock. The current proposal, considering all the changes that have occurred, is fully described in Section 1.2 of the attached Environmental Assessment (EA) (Enclosure 2).

2.0 Statutory Authorities and Required Approvals

2.1 Statutory Authorities. Section 10 of the Rivers and Harbors Act of 1899 (Section 10) prohibits the alteration or obstruction of any navigable water of the United States unless authorized by the Secretary of the Army acting through the Chief of Engineers. Choto Cove, a Tennessee River (TR) tributary at Mile 612.5, is a navigable water of the U.S. as defined by 33 CFR Part 329. Therefore, a Department of the Army (DA) permit under Section 10 is required for the work.

2.2 Corps Permit Decisions. The Corps must decide on one of the following:

- issuance of the permit
- issuance of the permit with modifications or conditions
- denial of the permit

2.3 Other Required Approvals. All water-based construction activities proposed in or along the TR or its tributaries require Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act (16 USC 831y-1). In addition to other provisions of its approval, TVA would require the applicant to employ best management practices (BMPs) to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts. TVA is a cooperating agency in the preparation of the EA that considers this action.

Other state and local approvals would be required for this proposal. The Tennessee Department of Environment and Conservation (TDEC) must issue a stormwater construction permit in accordance with current storm water regulations under the National Pollutant Discharge Elimination System (NPDES) program. An advanced wastewater disposal system would require approval

from TDEC. In addition, approvals from Knox County Government would be needed for code variances, health, and business permits, among others.

3.0 Scope of Analysis

We have concluded that the scope of analysis for this DA permit application should include the "Permit Area", i.e., the existing and proposed marina facilities, affected shoreline and near-shoreline areas, and uplands immediately adjacent to the work and directly affected as a result of authorizing the proposed activities. The site of an existing restaurant and associated amenities located on the southeast quadrant of the cove is outside the permit area for this DA permit application.

4.0 Public Involvement

4.1 General. Choto submitted an application for a DA/TVA permit on 01 April 2004. The application was determined to be complete on 21 July 2004. On 29 July 2004, USACE issued 30-day JPN No. 04-48 to advertise the existing and proposed activities (Enclosure 1). The JPN was widely distributed to numerous interested parties that included federal, state, and local agencies, elected officials, private/public organizations, news agencies, individuals, and adjacent property owners. In addition, the notice was posted on the Regulatory Branch website (www.lrn.usace.army.mil/cof). We received 211 public comments in response to the notice: 68 comments against, a 38-signature petition against, and 142 in favor. Three public hearing requests were received. Some of the concerns raised by the respondents included navigation, safety, aesthetics, noise, erosion, water quality, property values, and local laws (zoning, codes, health, etc.). Respondents commenting in favor of the proposal identified issues such as recreation, navigation, safety, and aesthetics. The Tennessee Historical Commission (THC) and U.S. Fish and Wildlife Service (USFWS) provided comments of no objection to the proposal. A summary and discussion/resolution of the comments can be found in Section 2 of the enclosed EA.

4.2 Supplemental Public Notice Decision. As expressed in Section 2.5 of the EA, the revisions and changes that have occurred since issuance of the JPN would result in comparable or lesser project impacts which would not affect the public's review of the proposal. Therefore, issuance of a revised public notice to advertise the changes is not warranted.

4.3 Applicant's Rebuttal. We forwarded Choto a summary of the objections, selected copies of substantive comments, and the petition for resolution and/or rebuttal. Choto responded addressing the substantive issues raised by letter dated 23 September 2004. Its rebuttal has been included in Appendix D of the EA. In addition, we arranged or participated in numerous teleconferences with Choto to discuss possible project changes to minimize the potential adverse effects of the existing and proposed activities on the environment and adjacent property owners.

5.0 Enforcement

5.1 Background. As described in the JPN, Choto requested after-the-fact approval for segments of floating docks that were already on site in front of the Joe and Brenda King property. These segments would be moved to locations where new floating docks would be constructed and used as elements of those docks. The proposed floating docks were also described in the notice. A total of 37 slips were proposed (this number includes the partially constructed dock segments in temporary locations). Proposed construction would include the following facilities:

Ship Store and Fuel Dock - Structure measuring approximately 134' wide by 114' deep.

"J" Dock Extension - Four covered slips (16' wide x 40' deep) with a roof height of 16' (at drip).

Dry Stack Holding/Service Dock - Four covered slips (3 @ 18' wide x 50' deep and one @ 20' wide x 60' deep) with a roof height of 18' (drip). The existing fuel dock would be renovated and a sewage pump-out added. The overall dimensions of the renovated fuel/pump-out dock would be 12'x60'.

"D" Dock - Nineteen covered slips (12 would measure 16' wide x 36' deep x 20' high and seven slips would measure 12' wide x 32' deep x 12' high).

"E" Dock - Three covered slips measuring 16' wide x 48' deep x 20' high.

Floating Pier (Gangway) - A 4'x150' floating pier would be built close to the shoreline in front of the Gerald Victory property. The pier would start approximately 35' east of the Jim Amerson property limit.

Harbor Limits Expansion - Choto requested several changes to the current harbor limits as shown on the public notice drawings.

5.2 Additional Unauthorized Activities. In mid April 2005, prior to obtaining the required DA permit, Choto began the construction of the ship store and fuel dock and resumed construction of some of the partially built docks that were in temporary locations at the marina. A total of 12 slips were moved into position and connected to the existing docks. Six slips (Existing "D" Dock Extension) were added at the east end of existing "D" Dock and three slips (Existing "E" Dock) were added at the east end of the six new "D" slips. Finally, three slips (Existing "J" Dock Extension) were added at the east end of existing "J" Dock.

5.3 Investigation. Prompted by a call to TVA from an adjacent property owner who observed dock construction activities at the marina, USACE and TVA conducted a joint inspection of Choto Cove on 20 April 2005. The inspection confirmed that activities were being performed without the required DA and TVA permits. A USACE "Cease and Desist" letter was sent to Choto on 4 May 2005 directing them to stop all work in waters of the United States. Choto responded to the letter two days later indicating that they would comply with the order and explaining the reasons for conducting work without first obtaining the permits. Choto agreed to halt all construction activities, but indicated that this action should not be construed as an admission of guilt. Choto explained that it thought that conducting work within existing harbor limits was permissible. It added that on 24 January 2005, it had sent an email to USACE and TVA indicating that construction activities were starting within the current harbor limits. Neither USACE nor TVA reacted to this email.

Therefore, Choto assumed that it was not unlawful to proceed. Regarding the original unauthorized activities, i.e., the floating dock segments that existed on site partially assembled in temporary locations of the marina, Choto clarified that TVA personnel had granted verbal approval for them in 2003. For the above reasons, Choto believes it should be granted a permit and allowed to complete the planned activities.

5.4 Resolution. Choto has abided by the cease and desist order and has been very cooperative during the investigation phase of the case. Subsequent to a 10 May 2005 on site meeting with Choto and TVA, we decided that no further enforcement actions were needed.

6.0 Environmental and Public Interest Factors Considered

The decision whether to issue a permit must be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. All factors that may be relevant to the proposal must be considered. The relevant factors identified and concise descriptions of the probable impacts of the proposed action have been discussed in the attached EA. The environmental evaluation conducted in Section 3 of the EA was based on the final proposal identified in Section 1.3 of this findings document which includes the additions/changes. Numerous on-site inspections have been conducted—the first one occurred on 15 April 2004 and the last one on 10 May 2005. A report and pictures of the 15 April site inspection have been included with the EA.

7.0 Alternatives

7.1 General. As described in the attached EA, three alternatives were considered in detail: No Action, Applicant's Proposal, and Applicant's Proposal with Mitigation. No Action would result in no construction or work requiring a DA or TVA permit. This alternative may be brought by (a) Choto electing to modify its proposal to avoid jurisdictional work, i.e., construction of water-use facilities lakeward of the 813 contour, or (b) by denial of the permit. Since some of the facilities have been previously constructed, the No Action alternative would require that they be removed. The Applicant's Proposal consists of the proposal described in Section 1.3. Finally, the Applicant's Proposal with Mitigation consists of the proposal described in Section 1.3 with the addition of special permit conditions and/or commitments to minimize the impacts identified to the extent practicable. These recommended conditions are reasonably enforceable and would afford appropriate and practicable environmental protection. Several conditions have been specifically added to minimize impacts on water quality, aesthetics, and to protect the right to reasonable navigation access to waters of the U.S.

7.2 Comparison/Evaluation. An alternative comparison indicates that under No Action the potential environmental impacts described in the EA would not occur. Conversely, the expected socio-economic benefits described in the EA would not be achieved. No Action would not satisfy the applicant's stated purpose and need to expand its marina facilities and harbor limits. The Applicant's Proposal would potentially have various adverse and beneficial environmental and socioeconomic effects. These potential effects have been identified in the EA. Finally, the Applicant's Proposal with Mitigation would result in similar impacts/benefits than the Applicant's Pro-

positional alternative but with reduced impacts through the development of special conditions that will be added to the permit.

8.0 Findings

8.1 Enforcement. Since portions of this work were completed without prior DA approval, I have carefully considered the need for legal action. Choto has abided by the cease and desist order issued on 4 May 2005 and has been very cooperative during the investigation phase of the case. Except for minor adjustments, the unauthorized structures built or moved into final position would have likely received favorable consideration if the regular permit review process would have been allowed to end. Therefore, I have concluded that, under the circumstances, neither criminal nor civil action would be appropriate.

8.2 Clean Air Act (CAA) General Conformity Rule Review. Section 176(c) of the CAA requires that federal agencies assure that activities they engage in (e.g., agency actions, permits, licenses, etc.) conform to federally approved CAA state implementation plans. In 1993, EPA published its final General Conformity Rule (GCR) to implement Section 176(c) for geographical areas designated as "non-attainment" and "maintenance" under the CAA. The proposed activities would result in minimal levels of direct emissions of a criteria pollutant or its precursors. Any later indirect emissions are generally not within the Corps' continuing program responsibility, and cannot be practically controlled by the agency. The Corps has minimal federal control and responsibility over the project. Our scope of analysis for the proposed action is narrow including only the "Permit Area" (i.e., the existing and proposed marina facilities, shoreline and near-shoreline areas, and uplands immediately adjacent to the work and directly affected as a result of authorizing the existing and proposed activities). In complying with Section 176(c), the Corps is only responsible for analyzing the direct emissions resulting from the part, portion, or phase of the non-federal undertaking that is being permitted. The direct emissions resulting from work within our scope of action would be relatively minor and will likely fall below "de minimis" levels. For all these reasons, a conformity determination is not required for this permit.

8.3 Environmental Justice. Executive Order (EO) 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, requires federal agencies to identify and address, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minority and low-income populations. Through our public involvement process, we have offered government agencies, elected officials, adjacent property owners, and the public (includes, if applicable, low-income and minority populations) an opportunity to comment on matters that affect the citizenry's welfare. The proposed activity would not displace any minority or low-income group, and therefore, these segments of the population would not be disproportionately impacted by the project. One federal and one state agency commented to the proposal on matters unrelated to environmental justice. No one identifying himself as being of a low-income or minority group has indicated any objection to the work. Therefore, we have concluded that the proposal would satisfy the requirements of EO 12898.

File No. 200401142

8.4 Recommended Special Permit Conditions. Special permit conditions have been developed and recommended. The recommended conditions are reasonably enforceable and would afford appropriate and practicable environmental protection. Conditions have been specifically added to minimize adverse impacts on aesthetics, navigation, and water quality. Some of these conditions are necessary to satisfy legal and public interest requirements, help clarify the permit application, and afford appropriate and practicable environmental protection. The special conditions selected for inclusion in the DA permit have been listed in Section 4.3.3 of the attached EA.


8.5 Public Hearing Decision. JPN 04-48 contained a statement that any person may request, in writing, within the comment period specified in the notice, that a public hearing be held to consider the application. The JPN generated 211 public comments: 68 comments against, a 38-signature petition against, and 142 in favor. However, only three public hearing requests were received. In addition, the Tennessee Historical Commission and U.S. Fish and Wildlife Service responded indicating no objections to the proposal. On 5 April 2005, we denied the public hearing requests.

8.6 Findings of No Significant Impacts. Based on a full consideration of the EA and information obtained from the applicant and cooperating federal/state agencies, I have concluded that issuance or denial of the requested permit would not constitute a major federal action that would significantly affect the quality of the human environment. This constitutes a Findings of No Significant Impact (FONSI). Therefore, the preparation of an Environmental Impact Statement is not required. This FONSI was prepared in accordance with paragraph 7a of Appendix B, 33 CFR 325 dated 3 February 1988 (effective 4 March 1988).

8.7 Public Interest Determination. I have reviewed the application, responses to the JPN, and the EA. Three alternatives were evaluated, "No Action", "Applicant's Proposal", and "Applicant's Proposal with Mitigation". The "Applicant's Proposal with Mitigation" alternative would result in relatively minor environmental impacts. The mitigation measures developed in the EA in the form of special conditions (see Section 8.4 above) would reduce the unavoidable environmental impacts to the maximum extent practicable. The proposal would provide substantial public and private socioeconomic benefits. The public would benefit from additional recreational opportunities and from the economic stimulus caused by construction and day-to-day operations. Choto would benefit from increased slip rentals, boat sales, and improved operation logistics. Choto's stated purpose and need of expanding marina facilities and harbor limits would also be met. Having weighed the potential benefits that may be accrued against the reasonably foreseeable detrimental effects, I conclude that permit issuance would not be contrary to the public interest.

FOR THE COMMANDER:

6/1/2005
Date



William L. James
Chief, Eastern Regulatory Section
Regulatory Branch
Operations Division

Enclosure 1

Joint Public Notice



**US Army Corps
of Engineers®**
Nashville District

Public Notice

Public Notice No. 04-48

Date: July 29, 2003

Application No. 200401142

Please address all comments to:
Regulatory Branch, 3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Existing Floating Docks and Proposed Commercial Marina Expansion at Mile 612.5, Right Bank, Tennessee River, in Knox County, Tennessee

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) Permit pursuant to **Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)**.

APPLICANT: MEJ Properties, LLC
DBA Choto Marina
12214 Choto Marina Way
Knoxville, Tennessee 37922

LOCATION: Choto Marine Cove, opposite Mile 612.5, right bank, Tennessee River (Fort Loudoun Reservoir), in Knox County, Tennessee, USGS Concord-TN 7.5 Minute Series Quadrangle Map, Lat 35° 49' 11", Long 84° 08' 47". See Exhibit A.

DESCRIPTION: The proposed work consists of the construction of new floating docks and expansion of harbor limits. After-the-fact approval would be necessary for segments of the floating docks that are already on site in temporary locations at the marina. The existing dock segments would be elements of the proposed floating docks described in this notice. Details of the existing and proposed work are offered below. See Exhibits B-E.

a. Existing Dock Segments. Segments of new floating docks are already on site in front of the Joe and Brenda King property. These segments would be moved to locations where new floating docks would be constructed and used as elements of those docks.

b. Proposed Floating Docks. The applicant proposes to construct 37 new boat slips. Dock construction would consist of galvanized steel framing, pressure-treated wood deck, encased flotation, galvanized steel roof with color panels, and pipe piling anchorage. The ship store and fuel dock would also use cable deadmen for anchorage.

- Ship Store and Fuel Dock. This structure would be located at the downstream end of the "J" Dock. Seven uncovered slips would be included with the ship store. The ship store and fuel dock would measure approximately 134' wide by 114' deep.

- "J" Dock Extension. Four covered slips (16' wide x 40' deep) would be added on the downstream end of "J" Dock (upstream of the ship store). The height of the roof would be 16'.

- Dry Stack Holding/Service Dock. This dock would be located at the upstream end of existing "D" Dock. Work would involve construction of four new covered slips (3 @ 18' wide x 50' deep and one @ 20' wide x 60' deep). The roof of the covered slips would be 18' in height. The existing fuel dock would be renovated and a sewage pump-out added. The overall dimensions of the renovated fuel/pump-out dock would be 12'x60'.

- "D" Dock. Nineteen covered slips would be built between the existing "D" dock and new "E" dock. Twelve of the slips would measure 16' wide x 36' deep x 20' high and seven slips would measure 12' wide x 32' deep x 12' high.

- "E" Dock. Three covered slips would be added at the downstream end of the new "D" dock. The slips would measure 16' wide x 48' deep x 20' high.

- Floating Pier (Gangway). A 4'x150' floating pier would be built close to the shoreline in front of the Gerald Victory property. The pier would start approximately 35' east of the Jim Amerson property limit.

c. Harbor Limits Expansion. The applicant has requested several changes to the current harbor limits as shown on the public notice drawings.

Plans of the existing and proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this existing and proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the existing and proposed activity.

An Environmental Assessment will be prepared by this office before a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the existing and proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination, and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

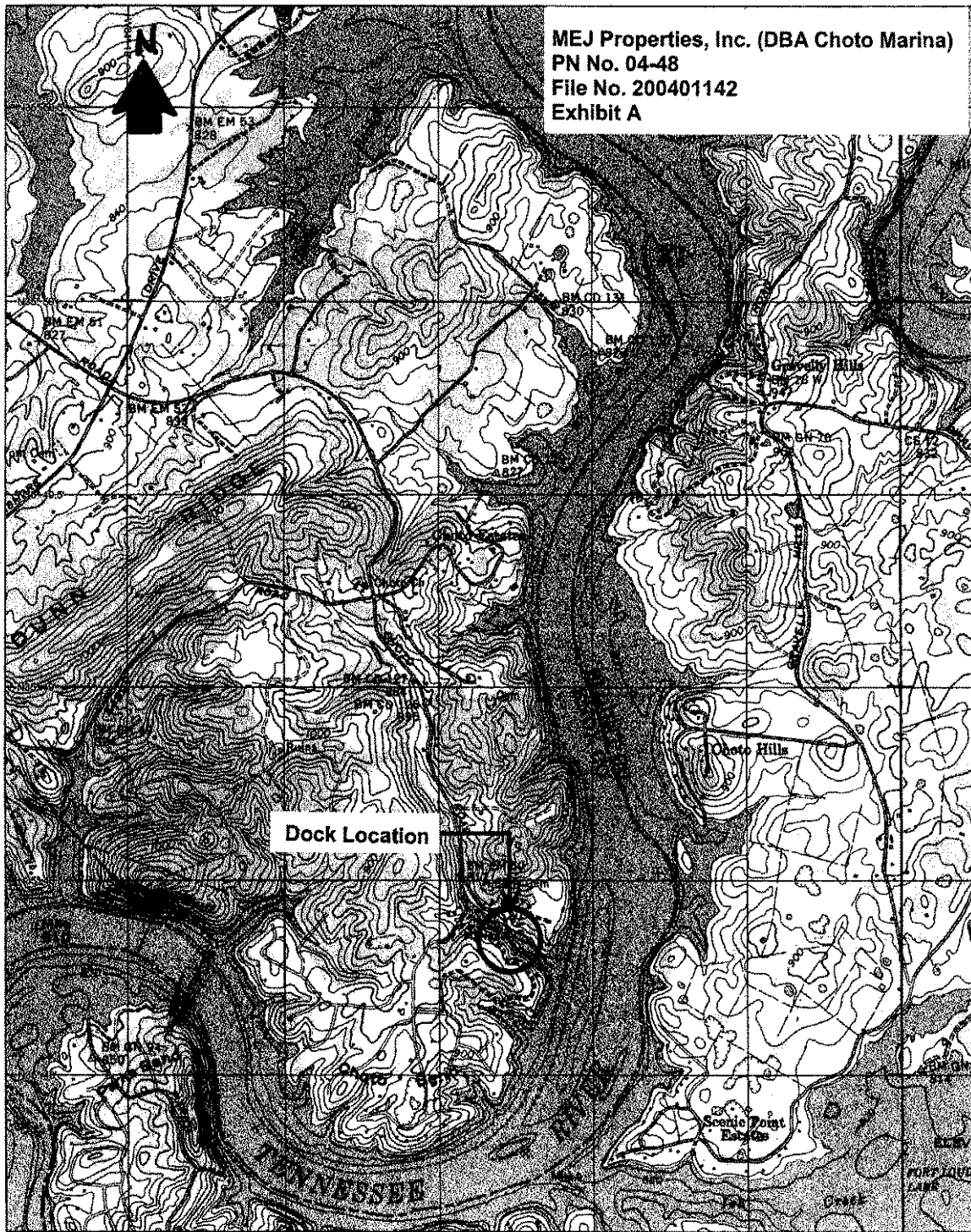
Other federal, state, and/or local approvals required for the existing and proposed work are as follows:

- Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before August 28, 2004, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: J. Ruben Hernandez, at the above address, telephone (615) 369-7519. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Little Tennessee Watershed Team, Attention: Gary Pettway, Suite 300, 804 Highway 321 North, Lenoir City, Tennessee 37771-6440.

MEJ Properties, Inc. (DBA Choto Marina)
PN No. 04-48
File No. 200401142
Exhibit A

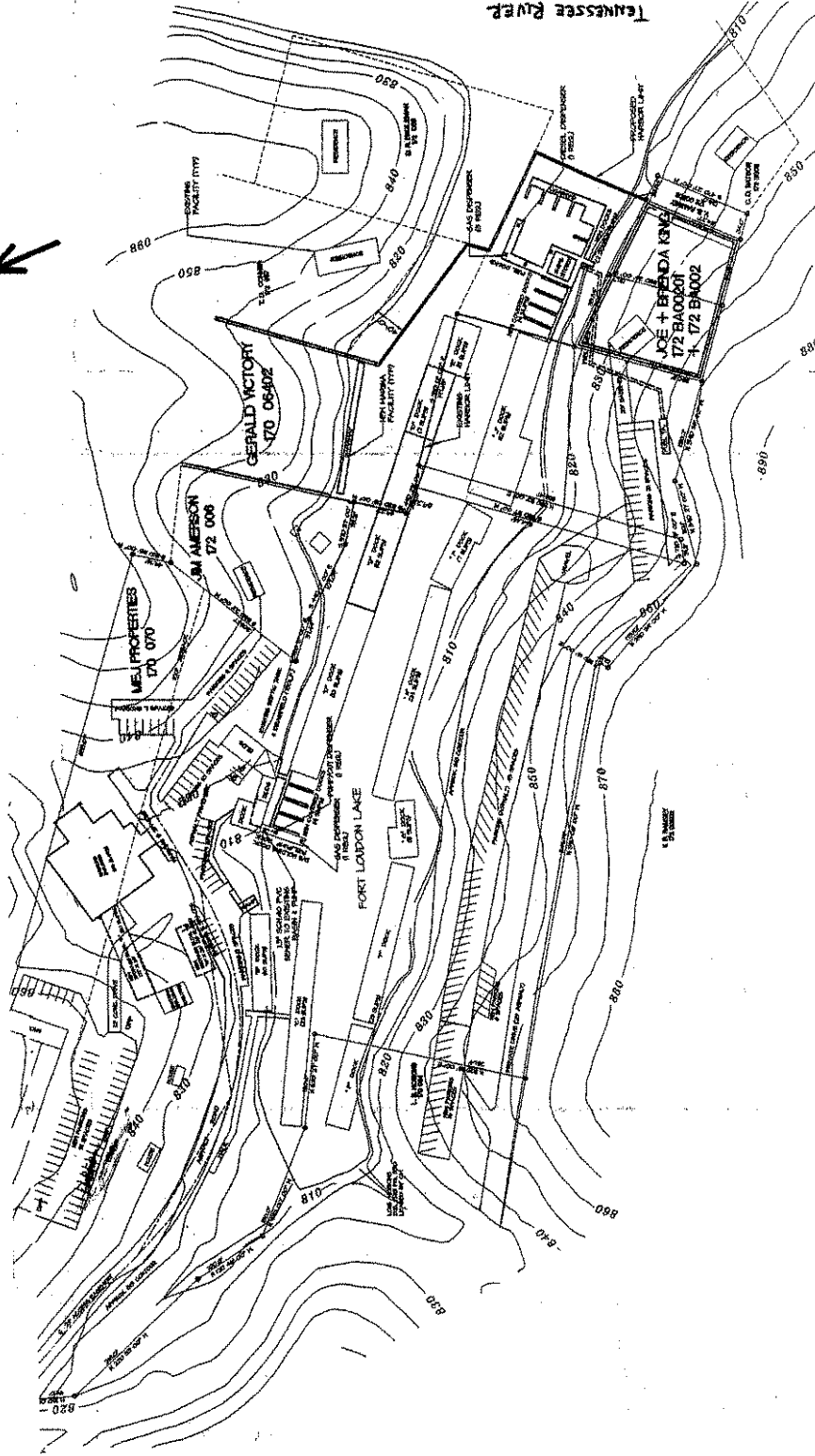


MEJ Properties, Inc. (DBA Choto Marina)

PN No. 04-48

File No. 200401142

Exhibit B



EXISTING & PROPOSED MARINA LAYOUT
N.T.S.

MEJ PROPERTIES
170 070

JIM AMERSON
172 006

GERALD VICTORY
170 06402

T.D. CON-1772 007

NEW MARINA
FACILITY (TYP)

810

EXISTING
HARBOR LIMIT

Enclosure 2

Environmental Assessment

ENVIRONMENTAL ASSESSMENT

(File No. 200401142)

Applicant: MEJ Properties, LLC (DBA Choto Marina)

EXISTING FLOATING DOCKS AND PROPOSED COMMERCIAL MARINA EXPANSION
AT MILE 612.5, RIGHT BANK, TENNESSEE RIVER,
IN KNOX COUNTY, TENNESSEE

U.S. ARMY CORPS OF ENGINEERS
Nashville District, Regulatory Branch
(Lead Agency)
AND
TENNESSEE VALLEY AUTHORITY
(Cooperating Agency)

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27 May 2005

Date

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1.0 Proposed Activity

1.1 Description/Project Purpose. As described in the 29 July 2004 Joint Public Notice (JPN) 04-48, Choto Marina (Choto) proposes to expand marina facilities and harbor limits (see Appendix A). Choto also seeks after-the-fact approval for segments of the floating docks that are already on site in temporary locations at the marina. Some segments are located in front of the Joe and Brenda King property. These segments would be moved to locations where new floating docks would be constructed and used as elements of those docks.

1.2 Project Changes. Plans have evolved since July 2004. Choto submitted several changes for consideration during the review process. In mid April 2005, prior to obtaining the required DA permit, Choto began the construction of the ship store and fuel dock and resumed construction of some of the partially built docks that were in temporary locations at the marina. A total of 12 slips were moved into position and connected to the existing docks. Six slips were added at the east end of existing "D" Dock and three slips ("E" Dock) were added at the end of the six new "D" slips. Finally, three slips ("J" Dock Extension) were added at the end of existing "J" Dock. A "Cease and Desist" letter was sent to Choto on 4 May 2005 directing them to stop all work in waters of the United States. Choto responded to our letter two days later indicating that they would comply with the order and explained the reasons for conducting work without first obtaining a Department of the Army (DA) permit. Subsequent to a 10 May 2005 on site meeting with Choto and the Tennessee Valley Authority (TVA), we decided that no further enforcement actions were needed. A more detailed discussion of the enforcement procedures is presented in Section 5 of the Statement of Findings/Findings of No Significant Impacts document that has been prepared to consider this permit decision. The current proposal consists of the following existing and proposed activities:

1.2.1 Proposed Floating Docks. Choto proposes to construct three new uncovered boat slips for the dry stack holding/service dock area at the western end of existing "D" Dock. The slips identified as "D" Dock Transient would measure 25' wide x 50' deep and overall dimensions of 90' wide x 54' deep. The existing fuel dispensing area would be relocated, and a sewage pump-out added. Dock construction would consist of galvanized steel framing, pressure-treated wood deck, encased flotation, and pipe piling anchorage. The location of existing "D" Dock would not change due to the addition of the transient dock.

1.2.2 Existing and Proposed Floating Docks. Dock construction would consist of galvanized steel framing, pressure-treated wood deck, encased flotation, galvanized steel roof with color panels, and pipe piling anchorage. The ship store and fuel dock would use cable deadmen for anchorage.

- Existing "D" Dock Extension. This dock has been built and connected to the east end of existing "D" dock. This dock contains six covered slips measuring 16' wide x 40' deep x 18' high (roof's drip edge).

- Existing "E" Dock. This dock has been moved from its temporary location and connected to the east end of Existing "D" Dock Extension. This dock contains three covered slips. Two of the slips measure 16' wide x 48.5' deep and one slip measures 16' wide x 62.3' deep x 18' high (roof's drip edge).

- Existing "J" Dock Extension. This dock has been built and connected to the east end of existing "J" Dock (west of the existing and proposed ship store and fuel dock). This dock contains three covered slips (2 @ 18' wide x 50' deep and 1 @ 20' wide x 60' deep). The dock's overall dimensions are 68' wide x 54' deep. The height of the roof at the drip edge is 25'.

- Existing and Proposed Ship Store and Fuel Dock. This structure has been partially assembled near the head of the cove. When completed, this dock would be connected to the east end of the Existing "J" Dock Extension. The structure's overall dimensions would be 105' wide x 80' deep. A submerged breakwater structure would be installed along the east side of the ship store and fuel dock to attenuate wave action on this and nearby facilities. The ship store and fuel dock would also use cable deadmen for anchorage.

1.2.3 Harbor Limits Expansion. The applicant has requested several changes to the current harbor limits. Before issuing the required 26a permit, TVA will update the existing harbor limits to accommodate all the existing and proposed facilities.

1.3 Decisions Required. U.S. Army Corps of Engineers (USACE) and TVA approvals would be needed for all proposed facilities and improvements within the scope of analysis for this permit application (Section 1.5). In addition, TVA approval would be required for the proposed harbor limit expansion and/or changes.

1.3.1 The USACE's jurisdiction is based on Section 10 of the Rivers and Harbors Act of 1899 (Section 10) (33 USC 403). Section 10 prohibits the alteration or obstruction of any navigable water of the United States (U.S.) unless authorized by the Secretary of the Army acting through the Chief of Engineers. Choto Cove, a Tennessee River (TR) tributary at Mile 612.5 is a navigable water of the U.S. as defined by 33 CFR Part 329. A DA permit under Section 10 is required for the work.

1.3.2 All water-based construction activities proposed in or along the TR or its tributaries require TVA approval under Section 26a of the TVA Act, as amended, (16 USC 831y-1). In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts. TVA is a cooperating agency in this review and in the preparation of this Environmental Assessment (EA).

1.3.3 The USACE and TVA must decide on one of the following: issuance of a permit for the proposal, issuance of a permit w/modifications or conditions, or denial of the permit.

1.4 Other Approvals Required. Various state and local approvals would be required for this proposal. The Tennessee Department of Environment and Conservation (TDEC) must issue a stormwater construction permit in accordance with current storm water regulations under the National Pollutant Discharge Elimination System (NPDES) program. An advanced wastewater disposal system would require approval from TDEC. In addition, approvals from Knox County Government would be needed for code variances, health, and business permits, among others.

1.5 Scope of Analysis. The USACE must determine the proper scope of analysis for National Environmental Policy Act (NEPA), National Historic Preservation Act (NHPA), Endangered Spe-

cies Act (ESA), and any other laws related to its permit actions. Once the scope of analysis is established, USACE can address the impacts of the specific activity requiring a DA permit and those portions of the entire project over which we have sufficient control and responsibility to warrant federal review. This is generally coincidental with the definition for "Permit Area." NEPA Implementation Procedures for the Corps Regulatory Program (33 CFR 325, Appendix B, Paragraph 7b) list the typical factors to be considered in determining whether sufficient control and responsibility exists to warrant federal review. Four factors are presented: (a) whether the regulated activity comprises merely a link in a corridor type project, (b) whether there are aspects of the upland facility in the immediate vicinity of the regulated activity which affect the location and configuration of the regulated activity, (c) the extent to which the entire project will be within USACE's jurisdiction, and (d) the extent of cumulative federal control and responsibility. In determining whether sufficient cumulative federal involvement exists to expand the scope of federal action outside the "Permit Area," we should consider whether other federal agencies are required to take federal action under other environmental review laws and/or executive orders.

Once the scope of analysis is determined, alternatives to the proposed action (Section 4) and primary, secondary, and cumulative impacts (Section 3.5) must be considered in the appropriate NEPA analysis. However, when analyzing secondary impacts, the strength of the relationship between those impacts and the regulated portion of the activity should be considered, i.e., whether or not the impacts are likely to occur even if the permit is not issued, in deciding the level of analysis and what weight to give these impacts in the decision. This attenuation should consider whether another project, not requiring a permit, could likely occur at the site or in the vicinity, and whether its impacts would be similar to impacts of the project requiring a permit.

In light of the above discussion, we have concluded that the scope of analysis for this DA permit application should be limited to the "Permit Area" which includes the existing and proposed marina facilities, shoreline and near-shoreline areas, and uplands immediately adjacent to the work and directly affected as a result of authorizing the existing and proposed activities. The site of a proposed restaurant and associated amenities to be located on the southeast quadrant of the cove is outside the permit area for this DA permit application.

1.6 Site Inspection. A joint site inspection was conducted on 15 April 2004. A report with accompanying pictures has been prepared and enclosed under Appendix B. Numerous site visits have been conducted by USACE and TVA personnel at various times since April 2004.

2.0 Public Involvement Process

2.1 General. Choto submitted an application for a DA/TVA permit on 01 April 2004. The application was determined to be complete on 21 July 2004. As indicated in Section 1.1, on 29 July 2004, USACE issued a 30-day JPN No. 04-48 to advertise the existing and proposed activities (Appendix A). The JPN was widely distributed to numerous interested parties that included federal, state, and local agencies, elected officials, private/public organizations, news agencies, individuals, and adjacent property owners. In addition, the notice was posted on the Regulatory Branch internet website (www.lrn.usace.army.mil/cof). We received 211 public comments in response to the notice: 68 comments against, a 38-signature petition against, and 142 in favor. Three public hearing requests were received. Some of the concerns raised by the respon-

dents included navigation, safety, aesthetics, noise, erosion, water quality, property values, and local laws (zoning, codes, health, etc.). Respondents commenting in favor of the proposal identified issues such as recreation, navigation, safety, and aesthetics. The Tennessee Historical Commission (THC) and U.S. Fish and Wildlife Service (USFWS) responded indicating no objections to the proposal. Copies of the THC and USFWS comments, as well as copies of representative substantive comments provided by the objectors/supporters, are included in Appendix C.

2.2 Public Notice Comments.

2.2.1 The THC responded to the public notice by letter dated 5 August 2004 indicating that no National Register of Historic Places (NRHP) listed or eligible properties would be affected.

2.2.2 The USFWS responded to the notice on 26 August 2004 indicating that based on the best evidence available at the present time no federally-listed or proposed threatened or endangered species are known to occur in the impact area. Therefore, it considers the requirements of Section 7 of the Endangered Species Act fulfilled. In addition, it believes that no significant impacts to fish and wildlife, their habitats, and human uses thereof would result from the proposal. Therefore, it would have no objection to the issuance of a permit for the advertised proposal.

2.2.3 As indicated in Section 2.1, we received numerous public comments both pro and against the proposal in response to the JPN. Some of the concerns stated against the proposal included navigation, safety, aesthetics, noise, erosion, water quality, property values, and local laws (zoning, codes, health, etc.). Respondents commenting in favor of the proposal identified issues such as recreation, navigation, safety, and aesthetics.

2.3 Applicant's Rebuttal. We forwarded Choto a summary of the objections, selected copies of substantive comments, and the petition for resolution and/or rebuttal. Choto responded addressing the substantive issues raised by letter dated 23 September 2004. Its comments have been summarized below (written from Choto's perspective and using their language) and a copy included in Appendix D.

2.3.1 General safety - Choto will have a written emergency plan.

2.3.2 Water quality - There will be a written marina emergency response plan. All employees that dispense fuel have been trained on emergency procedures. In the event of an emergency, they will act quickly insuring public safety and with complete regard for the ecological impacts.

2.3.3 Congestion, property access, etc. - The current marina operation, at its narrowest point, is 40' between the existing "I" dock and "E" dock. This preexisting area has been navigated for more than 20 years without incident. Choto currently has 45' boats navigating in this area. In response to the concerns of the Amerson, Conner, Batson, and Engleman families, Choto proposes to provide adequate width from the north shoreline to the nearest floating structure for navigable purposes. With respect to floating structures, all floating facilities are on property controlled by Choto. As part of Choto's approved 26a permit in 2003, TVA recognized a concern by Mr. Chip Howard, and a navigable easement was provided to Mr. Howard to ensure his egress and ingress to the western end of Choto Marina Cove. Choto believes it has allowed the same consideration for the Amersons, Englemans, Batsons, and Mr. Conner. Also, most of the en-

trances to the proposed slip expansion of "D" dock are west to east. This will eliminate most traffic in front of the Amerson and Conner residences.

2.3.4 Codes and zoning - In previous public hearings, Choto was granted all necessary variances and approvals by the Knoxville - Knox County Metropolitan Planning Commission (KMPC), Knoxville Board of Zoning Appeals (KBZA), and Knox County Commission (KCC) to complete the proposed improvements. In one of the approvals, Choto received a waiver between a dock and the Amerson residence from 300' to 100' as to relocate the fuel dock at the end of the current "E" dock location. This location would better satisfy the operational goals of the marina over the current location, but would be located much closer to the Amerson property. To minimize the potential impact on the Amerson property, Choto also applied for and received approval from Knox County for an alternate site to relocate the gas dock east of "J" dock. This option required Choto to obtain a waiver of distance between a dock and residence from 300' to 120' for Batson, Engleman, and Conner properties for the fuel dock and ship store east of "J" dock. Choto has elected the "J" dock option to minimize the impact to the Amersons and because it offers even greater boater traffic management and safety features. Choto also received a waiver of ownership or control of the opposite shoreline within 200' of all docks to 0' of all docks. Choto was granted waiver of ownership inland of the opposite shoreline from 100' to 0'. All of the waivers were granted by KBZA.

2.3.5 Navigation safety - The proposed fueling facility and ship store at summer pool is approximately 96' from the opposite shoreline owned by the Englemans. In reviewing a number of other marinas on Fort Loudon Lake, specifically Ft. Loudon Dam Marina, International Harbor, PJ's Marina, and Ft. Loudon Yacht Club, the entrance into Choto Cove is greater than these identified marinas: Ft Loudon Dam Marina entrance 80'; International Harbor Marina entrance 60'; PJ's Landing Marina 30'; Ft. Loudon Yacht Club 40'. Through recent discussions with our current tenants, the ideal layout of the fueling facility and ship store is to provide a breakwater east of the ship store and to provide wake protection in the fueling area. That is being accomplished with the proposed facility. With respect to the ease of navigation in and out of Choto Cove, it is clear that larger boats are being docked on the eastern side of the cove which will allow for smaller boats to navigate in and around the dry stack operation more easily and safely. The current design element of the cove provides for safe navigation for the boating community as well as the fishing community.

2.3.6 Noise and aesthetics - During the summer of 2003, Choto aggressively limited the noise impact for the current marina customers as well as the neighbors in the Choto Cove. Choto removed the bar operation that remained open past 1:00 a.m. on frequent occasions and eliminated the loud music that was emanating from the bar. It is Choto's practice to have all fuel dock and ship store operations closed by 8:00 p.m. on weekends and 6:00 p.m. on weekdays. The Marina hours are consistently published on Choto's website throughout the year for public review. Choto also provides 24-hr security services for their marina customers. During the removal of the bar operation in 2003, Choto made a significant impact in transitioning the marina into a family atmosphere by providing security for our customers and by limiting the amount of local traffic that frequented the bar operation. In the spirit of cooperation with the neighbors, Choto has lowered the dock heights for the proposed "D" dock expansion as well as relocating the docks from the Victory property. The Amersons and Conner cove views are currently to the south and southeast respectively. Each of them has been looking at dock roofs since their purchase of the respective properties. Mr. Amerson has just completed the construction of a new covered dock with a roof height of approximately 20' located in full view of the front of his residence.

2.3.7 Highway traffic - This subject has been misrepresented by a number of comments made to TVA and USACE. To clarify the record, during the number of public hearings with Knox County, the traffic utilization of Choto Road has been estimated to be 27% to 56% depending on the weather, day of the week, holidays, and time of day. This utilization is well within the capability of Choto Road. By removing the bar operation, Choto has strived to provide for a safer use of the road. That was one of the major goals in the removal of the bar. The delivery of smaller runabouts is done by truck with scheduled deliveries during the day. Boats and yachts that are 25' and larger are delivered to Tellico Harbor and driven to Choto by water. Choto is confident that if Knox County had a concern with respect to increased traffic on Choto Road due to our improvements some type of recommendation would have been made by either the KMPC or KBZA.

2.3.8 On-board living - During MEJ Properties, LLC's, ownership, there has never been nor will ever be permanent on-board living by houseboat or by 3A non-navigable houseboats. With respect to the commenters' opinions on the matter of "Choto not following the rules", since August 2003 all improvements made are, and any future improvements will be, within the requirements set by the KMPC staff recommendations, KBZA, KCC, and Knox County Health Department. In quoting Knox County mayor's chief of staff, Mike Arms, "Choto is making the required improvements that have not been made by the previous owners and to bring the Marina in line with the surrounding neighborhoods". I ask TVA and USACE support to approve the planned improvements and to allow Choto to begin the process as soon as possible.

2.4 Evaluation of Public Notice Comments.

2.4.1 Navigation. Concerns were expressed that the ship store/fuel dock would block the entrance to the marina and make navigation more difficult. Some commenters were concerned about the additional boat traffic that would be generated. Other commenters believed that the dock additions would restrict water access to property owners' lakefronts. Response: The maximum lakeward extension of the redesigned ship store/fuel dock would be approximately 80' measured from the NSP shoreline. This extension is reasonable, is close to the standard 1/3 waterway width guideline typically used by the Corps and TVA in narrow embayments, and would not unduly impede navigation in and around the facility. Since the proposed floating docks would be properly marked/lighted, only minimal adverse effects on recreational navigation is expected. Based on the reduced footprint sizes and locations of the existing and proposed facilities and planned separation of structures to land areas, water access to lakefront properties would not be substantially restricted. The final plan has been discussed with Mr. Amerson, the most directly affected property owner and he is relatively satisfied with the proposals and access to his property. The project site is recessed and distant from the Tennessee River navigational channel sailing line. Therefore, commercial navigation would not be affected. The marina layout is such that no structure would be constructed within 300' of the river channel to not slow down commercial traffic due to "no wake" issues.

2.4.2 Safety. Several commenters indicated that increased traffic levels would make the roads leading to the marina more dangerous. Other commenters expressed concerns associated with dangers of the refueling operation at the ship store due to its proximity to the main channel. Response: Safety is a broad factor that may include health-related issues. Accidental spills and discharges into surface waters can occur during construction and operation of the proposed marina facilities. A Spill Prevention Control and Countermeasure Plan (SPCC) is being requested by USACE and TVA as part of our joint review process. The Plan will include emergency contact

information (phone numbers, etc.) Overall, safety would be minimally affected by the proposed action. Navigation safety is a concern and has been discussed in paragraph 2.4.1 above. A minimal increase in traffic levels is expected since only 15 additional slips exist or are proposed.

2.4.3 Noise and Aesthetics. A few commenters alluded to impacts on the natural beauty and character of the area. In addition, some of the cove's eastern end property owners objected to the proposed dock placement because of potential lake view losses. Response: Choto has been in business for over 50 years and facilities have been gradually added to the operation as demand increased. Therefore, the construction of additional marina facilities would produce little change in the general visual character of the cove. The view looking south and southeast from the Amerson residence would be impacted by the construction of the D and E docks planned in front of the lot and to some degree by the proposed ship store/fuel dock to be located on the opposite shoreline near the mouth of the cove. However, the lake view would only be partially affected since the residence is located 15' to 20' above the water and the docks would have relatively low roofs. In addition, the ship store/fuel dock would extend north for about a third of the waterway width. No docks would be built directly in front of the Batson, Engleman, or Conner properties. Residences on those properties lie at higher ground elevations than the Amerson residence. In addition, the waterway view from these residences is already partially screened by trees, ground cover, and topography. Therefore, the views from those residences would be minimally impacted. Noise levels would increase slightly above background values during the construction and operational phases. Since the work site presently experiences commercial/recreational activities and the proposed boat traffic increases would be relatively minor, the predicted short- and long-term adverse effects on noise and aesthetics would be minimal.

2.4.4 Erosion, sedimentation, and water quality. Many commenters indicated that the proposed activities would erode and destabilize soils resulting in sedimentation and associated water quality impacts. Response: The application of design, construction, and operational measures to control and properly dispose of potential pollutants is expected to result in only minor impacts to reservoir water quality. These measures include: (1) best management practices to prevent pollution runoff and to contain and remove accidental spills, (2) installation and proper operation of an approved wastewater collection and disposal system, and (3) installation and proper operation of a wastewater pump out system for boats. The construction of the floating docks would have negligible water quality impacts. Minor, inadvertent spills of petroleum products from increased boat traffic could occur periodically at the marina. However, flows from the perennial stream that discharges into the cove and river currents in the nearby Tennessee River channel are expected to disperse these products such that water quality impacts would be minimal. Only minimal riparian vegetation removal and soil disturbance activities would occur as a result of the existing and proposed water-use facilities. Therefore, water quality impacts from erosion and sedimentation effects would be negligible to nonexistent.

2.4.5 Property values. Some commenters indicated that the proposed activities would de-value cove properties not owned by Choto. Some of these residents have made recent substantial improvements to their properties. Response: Varying opinions exist among land appraisal experts, developers, real estate companies, and property owners concerning potential impacts of facilities such as the proposed on residential property values. Potential economic effects to residential property values in the immediate area are speculative and would depend on market demand. No data is available to analyze how the property values of a similar mixed residential and

commercial neighborhood may have been affected by a marina expansion. Choto has expressed on various occasions its desire to continue efforts to purchase/lease adjacent private properties to have greater control over future expansions and improvements.

2.4.6 Local laws (zoning, codes, health, etc.). Many commenters indicated that the marina has had a history of non-conforming structures and needed to obtain code variances to expand. These code variances have been contested and private lawsuits had been filed against Choto concerning these variances. Response: Choto has indicated that it has been granted all necessary variances and approvals by the Knoxville - Knox County Metropolitan Planning Commission (KMPC), Knoxville Board of Zoning Appeals (KBZA), and Knox County Commission (KCC) to complete the proposed improvements. Because USACE and TVA has not been able to verify whether all necessary variances and approvals have already been granted, we have advised Choto that DA/TVA permits contain general conditions that remind permittees that our authorizations do not obviate the need to obtain other federal, state, or local permits/approvals required by law. The processing of this DA/TVA permit application has proceeded concurrently with the processing of other required federal, state, and/or local authorizations or certifications. Final action on the DA/TVA permit will normally not be delayed pending action by another federal, state or local agency. We have given due consideration to the official views contained so far in the record of the application as a reflection of local factors of the public interest. Finally, the primary responsibility for determining zoning and land use matters rests with state, local and tribal governments. We will normally accept decisions by such governments on those matters unless there are significant issues of overriding national importance.

2.5 Supplemental Public Notice. The basic precept of the public notice (PN) process is to include sufficient information to give a clear understanding of the nature and magnitude of the activity to generate meaningful comment. A supplemental PN must be issued whenever there is a change in the application data that would affect the public's review of the proposal or when the probable impacts to the aquatic environment resulting from the changes are substantially greater from those described in the original PN. The revisions indicated in Section 1.2 would result in comparable or lesser project impacts which would not affect the public's review of the proposal. Therefore, issuance of a revised public notice to advertise the changes is not warranted. The environmental evaluation conducted in Section 3 below is based on the final proposal described in Section 1.2.

3.0 Environmental and Public Interest Factors Considered

3.1 Introduction. 33 CFR 320.4(a) states that the decision whether to issue a permit will be based on an evaluation of the probable impacts, including cumulative impacts, of the proposed activity and its intended use on the public interest. All factors that may be relevant to the proposal must be considered (see listing in JPN 04-48, Appendix A). The following sections describe the affected environment and relevant factors identified and provide a concise description of the probable impacts of the proposed action. The USACE and TVA have obtained the baseline data discussed in this section from field investigations, information submitted by the applicant and resource agencies, and from numerous other sources.

3.2 Physical/Chemical Characteristics and Anticipated Changes.

(x) substrate - The proposal would result in minimal impacts to the substrate within the cove.

(x) currents, circulation or drainage patterns - The existing and proposed dock construction would have negligible effects on present area currents, circulation or drainage patterns.

(x) suspended particulates, turbidity - The existing and proposed pile driving activities associated with the construction of the docks has resulted and would result in a temporary resuspension of bottom sediments and related turbidity. The greater number of boats in the cove may cause long-term increased turbidity due to prop wash effects on the bottom sediments. However, these adverse effects would be relatively minor.

(x) water quality - The project area is located on an embayment of Fort Loudoun Reservoir at Tennessee River Mile (TRM) 612.5 right bank (R). This section of the Tennessee River is classified by (TDEC) for domestic and industrial water supply, fish and aquatic life, recreation, irrigation, livestock watering and wildlife, and navigation. Fort Loudoun Reservoir is on the state 303 (d) list as impaired (i.e., not fully supporting its designated uses) due to PCBs from contaminated sediments. According to the TVA Reservoir Ecological Health web page (www.tva.gov/environment/ecohealth/fortloudoun.htm), Fort Loudoun Reservoir rated "fair" in 2003 (last rated year). TVA rates reservoir condition based on five ecological indicators: dissolved oxygen, chlorophyll, fish, bottom life, and sediment. Dissolved oxygen rated good near the dam and good at mid-reservoir. Chlorophyll levels were high as in previous years and rated poor. Monitoring revealed a fair to good number and variety of fish. A state advisory exists against eating certain fish species from Fort Loudoun Reservoir because of the PCB contamination. Bottom life rated from poor to fair at the monitoring locations. The state of Tennessee has issued a bacteriological advisory for the head of the Sinking Creek Embayment on Fort Loudoun Reservoir. There are also advisories on tributary streams (First Creek, Goose Creek, Second Creek, and Third Creek) that flow into the reservoir.

Soil disturbances associated with construction activities can potentially result in adverse water quality impacts. Soil erosion and sediment runoff can increase water turbidity and threaten aquatic life. Removal of the tree canopy along the shoreline can increase water temperatures, algal growth, dissolved oxygen depletion, and adverse impacts to aquatic biota. Because minimal soil disturbance and vegetation removal are needed to conduct the existing and proposed activities, negligible water quality impacts from erosion and sedimentation are expected. Marina operations, boating activities, and improper waste disposal can also adversely impact water quality. Improper wastewater collection and treatment can potentially seep into the groundwater or the reservoir. Improper application of herbicides to control vegetation could result in runoff and subsequent aquatic impacts.

However, the application of design, construction, and operational measures to control and properly dispose of potential pollutants is expected to result in only minor impacts to reservoir water quality. These measures include: (1) best management practices to prevent pollution runoff and to contain and remove accidental spills, (2) installation and proper operation of an approved wastewater collection and disposal system, and (3) installation and proper operation of a wastewater pump out system for boats. The construction of the floating docks would have negligible water quality impacts. Minor, inadvertent spills of petroleum products from increased boat traffic could occur periodically at the marina. However, flows from the perennial stream that

discharges into the cove and river currents in the nearby Tennessee River channel are expected to disperse these products such that water quality impacts would be minimal.

Presently, all sewerage is collected and pumped into an absorption field located northeast of the marina office building. No additional wastewater would be permitted to be discharged into the existing system. An approval for additional wastewater treatment system would be required for any facility which would add to the wastewater stream. With a properly designed and installed advanced wastewater treatment system, additional wastewater from pumpout waste and other additional designed and installed facilities should not cause any significant environmental impacts.

(x) flood control functions - The existing and proposed activities would result in minimal alterations to the riparian areas below the 500- and 100-year flood elevations. Therefore, the natural flood attenuation and storage characteristics of the area are being preserved.

(x) storm, wave, and erosion buffers - The existing and proposed marina expansion would occur in a fairly narrow, small cove opposite TRM 612.5R. The existing and proposed dock structures would be at a distance of more than 300' from the Tennessee River navigable channel. Wave wash effects from vessels using the river channel are expected to be minimal. The proposed installation of a submerged breakwater along the east side of the ship store and fuel dock located near the mouth of the cove would help attenuate wave action impacts.

(x) shore erosion and accretion patterns - Any currently existing accretion patterns would not likely be affected by the presence of additional docks. The existing shorelines are adequately protected with riprap, and ongoing erosion is minimal.

(x) baseflow - The existing and proposed activities would not affect the baseflow, i.e., normal dry-weather flow which is mainly derived from groundwater.

3.3 Biological Characteristics and Anticipated Changes.

(x) special aquatic sites (wetlands, mudflats, pool and riffle areas, vegetated shallows, sanctuaries, and refuges, as defined in 40 CFR 230.40-45) - No special aquatic sites exist within the permit evaluation area.

(x) habitat for fish and other aquatic organisms - Fort Loudoun Lake makes available approximately 360 miles of shoreline and about 14,600 acres of water surface. The lake's fish population contains species such as crappie, channel catfish, bluegill, black bass, sauger, smallmouth bass, largemouth bass, striped bass, white bass, and others. The existing and proposed marina facilities would require the driving of pilings into the river bottom. The resulting disturbance to the aquatic bottom and organisms that reside in the substrate would be minimal.

(x) wildlife habitat - Choto is located in Knox County, Tennessee, in the Choto Bend area of the TR between the cities of Concord (Knox County) and Lenoir City (Loudon County). The marina occupies approximately 15.3 acres and is bordered by residential neighborhoods. The cove is surrounded by seasonal and occupied residential structures with a mixture of maintained lawns and overgrown lots. The marina office, dry stack, maintenance, and storage buildings, and several parking lots are located a short distance from the water. Extensive riparian canopy is evident

along the riparian zone. A variety of trees such as oak, maple, hickory, pine, etc., are abundant. There is no particularly unique or important terrestrial habitat that will be affected by the existing and proposed marina expansion project. Exotic, invasive plant species are widespread and common in the project area and the existing and proposed activities are not expected to contribute to the spread of any of these species. Wildlife known to occur in this area includes game species, small mammals, reptiles, and songbirds. The extent of human activity in the general vicinity has resulted in low wildlife habitat values. Only minimal vegetative clearing would be necessary to install and operate the docks. Considering the limited area to be impacted and the mobility and adaptability of species that may occupy this area, the existing and proposed action would result in minimal short- and long-term wildlife impacts.

Migratory bird habitat is limited in the immediate project area. Existing shoreline vegetation in the embayment area provides limited habitat for a small number of migratory passerine bird species. The existing and proposed actions are not expected to substantially affect the existing habitat. Therefore, potential effects to migratory bird populations are considered to be minimal.

(x) endangered or threatened species - A review of existing databases and records did not reveal the presence of any federally listed threatened or endangered species or designated critical habitat at the project site. Based on information obtained from our files and the response from the USFWS, we have determined that the proposal would have no effect on threatened or endangered species or designated critical habitat.

(x) biological availability of possible contaminants in dredged or fill material; testing records - Small quantities of petroleum products and other contaminants could potentially exist in the lake bottom that could be disturbed during the pile driving activity. If contaminants were present in the substrate, short-term minor water quality impacts would occur. The implementation of best management practices and observance of provisions contained in necessary state/local permits would minimize any potential adverse effects.

3.4 Human Use Characteristics and Anticipated Impacts.

(x) existing and potential water supplies, water conservation - The USACE's permit database records five municipal or industrial raw water intakes in the main stem of Fort Loudoun Lake. Industrial intakes exist upstream of the marina at TRM 640.9R, 646.9, left bank (L), and 647.8L. Two city of Knoxville municipal intakes are located upstream of the marina at TRM 646.4R and 649.1L. The marina expansion would not impact those existing water supply systems. As indicated in the Water Quality paragraph (Section 3.2), the existing and proposed activities would only result in minimal short- and long-term water quality impacts. Therefore, the existing and proposed action would not likely affect any new municipal/industrial water intakes built downstream of the project site. Finally, the work would have negligible to non-existent impacts on water conservation (storing, saving, reducing or recycling water).

(x) recreation - Fort Loudoun Lake, a Tennessee River main-stem reservoir, is approximately 50 miles long and has 14,600 acres of surface area and 360 miles of shoreline. Information obtained from the TVA public website indicates that more than two million outdoor enthusiasts visit Fort Loudoun Lake yearly. The reservoir is known for its bass fishing, boating, and bird watching.

Additional recreational opportunities offered by the lake include but are not limited to water skiing, windsurfing, swimming, hiking, nature photography, picnicking, and camping.

Several marinas, resorts, state/municipal parks, and camping areas exist along the shores of Fort Loudoun Lake. The nearest commercial marina is International Harbor Marina located at TRM 612.0L. Concord and Fox Road marinas are located in the Sinking Creek Embayment which is opposite TRM 617.0R. TVA's Dam Reservation and Yaberry Peninsula public recreation areas are located about 10 miles downstream on the TR. Blount County Park (TRM 614.4L) and Concord Park (TRM 617.0R) are two public parks located nearby. In addition, the nearest public boat launching site exists at TRM 609.4R.

There would be some minor temporary recreation impacts experienced by the marina tenants and anglers during the marina expansion construction period. As indicated in Section 1.2, most of the proposed docks have been constructed and moved into position. Therefore, remaining construction impacts are expected to be minimal. Given the additional enhanced facilities and additional services planned or already in place, there would be long-term enhanced recreational opportunities for present and prospective customers as well as the public. Water-oriented recreation opportunities in areas outside the cove would not be affected.

(x) aesthetics – Choto occupies roughly 15.3 acres of a fairly narrow cove and is just a few hundred feet away from the TR navigation channel. Commercial buildings, parking lots, and a few private lots with residences border the cove. Dense canopy is evident along most of the riparian zone, particularly on the cove's eastern side. The residential lots display a mixture of manicured lawns and wooded areas.

Choto has been in business for over 50 years, and facilities have been gradually added to the operation as demand increased. Therefore, the construction of additional marina facilities would produce little change in the general visual character of the cove. However, the current lake view from four residences located on the cove's eastern side adjacent to the existing and proposed expansion would be negatively affected to varying degrees. The residences are owned by the Batson (in the family since 1962), Engleman, Amerson (house erected in the 1960s), and Conner (house erected in the 1960s) families. The view looking south and southeast from the Amerson residence would be impacted by the construction of the D and E docks planned in front of the residence and to some degree by the proposed ship store/fuel dock to be located on the opposite shoreline near the mouth of the cove. However, according to Choto's most recent site development plan, the Amerson residence is located above the 830 contour. Since docks D and E would have 18' high roofs, i.e., a top elevation of 831 measured at normal summer pool, and the ship store/fuel dock would extend north for about a third of the waterway width, the impacted view would be partial. No docks would be built directly in front of the Batson, Engleman, or Conner properties. Residences on those properties lie at higher ground elevations than the Amerson residence. In addition, the waterway view from these residences is already partially screened by trees, ground cover, and topography. Therefore, the views from those residences would be minimally impacted.

The use of marine- and land-based heavy equipment and machinery would cause a temporary disruption of aesthetics during the construction phase. As indicated in Section 1.2, most of the

proposed construction has already occurred. Therefore, the remaining short-term impacts would be minimal. Long-term aesthetic impacts would range from minor (Batsons, Conner, and Englemans) to moderate (Amersons). However, an attenuating factor present is that the commercial marina has existed since the 1950s, and the affected residences have coexisted with the marina operation since the 1960s. Floodlights or high intensity lights would not be allowed on the docks (enforceable permit conditions would be added). Only standard deck lights to adequately define the presence of the structure on the water and to identify walkways will be permitted.

All lights used (including headlights and pole-mounted, equipment-mounted or structure mounted floodlights) will be fully shielded or have internal low-glare optics, such that no light is emitted from the fixture at angles above the horizontal. For construction this may require temporary retrofitted headlights, floodlights, and other fixtures with external visors and side-shields. Shielded Low Pressure Sodium will be used during the construction and operational phases. Area lighting and parking lot poles will be no taller than 40 feet, unless they are lighting objects taller than 40 feet. In such cases pole height will be minimized.

(x) traffic/transportation patterns – Access to the marina is from Choto Road. From the marina, Choto Road moves in a north-northwesterly direction ending in Harvey Road. Harvey Road becomes McKee Road before connecting to Kingston Pike (US-70/11) in the Farragut area. Major roads intersecting Choto Road include Early Road and North Shore Drive. The marina expansion, i.e., 15 slips and a ship store/fuel dock structure, would generate a small amount of additional traffic to the property. Choto Road and connectors are at least two lanes wide and appear to have the capacity to adequately accommodate the increased traffic. Choto has indicated that the delivery of smaller boats is done during the day by truck while bigger boats/yachts are delivered by water. The effect of the proposal on water-based traffic and/or transportation patterns would be minimal.

(x) energy consumption or generation – The existing and proposed action would have minimal effects on energy consumption or generation.

(x) navigation - Fort Loudoun is connected by a short canal to Tellico Reservoir on the nearby Little Tennessee River. Water is diverted through the canal to Fort Loudoun for power production. The canal also offers commercial barges access to Tellico without the need for a lock. Barges passing through the Fort Loudoun Lock carry half a million tons of cargo a year. Typical normal operating zone summer and winter pool levels are Elevation 813 and 808, respectively.

The existing and proposed docks would be located on a fairly narrow cove opposite TRM 612.5R. The cove varies in width from approximately 150' to 250'. The maximum lakeward extension of the ship store/fuel dock would be approximately 80' measured from the NSP shoreline. This extension is reasonable, is close to the standard 1/3 waterway width guideline typically used by the Corps and TVA in narrow embayments, and would not impede navigation in and around the facility. Adequate open water widths would be maintained between the back side of "D" and "E" docks and the north shoreline to protect the Amerson family right for reasonable access to navigable waters. Since the existing and proposed floating docks would be properly marked/lighted, only minimal adverse effects on recreational navigation is expected. The project site is

recessed and distant from the Tennessee River navigational channel sailing line. Therefore, commercial navigation would not be affected.

(x) safety - Safety is a broad factor that may include health-related issues. Accidental spills and discharges into surface waters can occur during construction and operation of the marina facilities. As indicated in Section 1.4, the regulation of stormwater discharges would be through the state NPDES permit process. The permit would offer controls for many different types of pollutants that can be carried by surface waters because of construction activities. Issues typically covered in this type of permit include water runoff controls, equipment/vehicle fueling operations, chemicals and petroleum products storage, litter and solid waste generation/handling, protection of endangered plants and animals, maintenance, and inspections. In addition, a Spill Prevention Control and Countermeasure Plan (SPCC) is being requested by USACE and TVA as part of our joint review process. The Plan will include emergency contact information (phone numbers, etc.) Used oils will be managed in accordance with TN regulations and 40 CFR 279 – Standards for the Management of Used Oil, as applicable. Overall, safety would be minimally affected by the existing and proposed action. Navigation safety is a concern and has been previously discussed.

(x) air quality - Tennessee is subject to the National Ambient Air Quality Standards, which limit outside air concentrations of six pollutants: particulate matter, sulfur dioxide, carbon monoxide, ozone, nitrogen dioxide, and lead. Knox County is in nonattainment status for ozone (smog) and the new PM-2.5 standard (fine particulates). Section 176(c) of the Clean Air Act (CAA) requires that federal agencies assure that activities they engage in (e.g., agency actions, permits, licenses, etc.) conform to federally approved CAA state implementation plans. The existing and proposed action has resulted and would result in only minimal direct emissions. The USACE has made a conformity applicability determination for this permit action pursuant to regulations implementing Section 176(c) of the CAA and has documented such compliance in its Statement of Findings/FONSI document.

(x) noise - Noise levels would increase slightly above background values during the construction phase, i.e., a short-term effect. As indicated in Section 1.2, most of the proposed activities have already occurred. Therefore, remaining short-term noise impacts would be minimal. The operational phase would result in minor long-term increases above background levels. Considering the commercial/recreational nature of this area and present levels of boat traffic and associated maneuvering, the expected short- and long-term adverse effects would be minimal.

(x) historic properties and cultural values - No NRHP listed or eligible properties have been identified. By letter dated 5 August 2004, THC indicated that it did not have any objections to the proposal (see also Section 2.2.1).

(x) land use classification - The marina complex is located on 15.31 acres of property zoned commercial. According to information provided by Choto (this fact has not been verified by us or TVA), the Amerson property, which was part of the marina operation under the previous ownership, is also zoned commercial. The Batson, Conner, Victory, and Engleman properties have residential designations. The existing and proposed action would have no impact on land use classification. Any future zoning changes would be the responsibility of Knox County authorities.

(x) conservation - The proposal would result in negligible wildlife impacts and relatively minor aquatic habitat impacts. No wetlands or sensitive/important upland features or resources would be affected by this work.

(x) economics - The economic benefits of many projects are important to the local community and contribute to needed improvements in the local economic base, affecting factors such as employment, tax revenues, community cohesion, community services, and property values. When private enterprise makes application for a permit, USACE generally assumes that appropriate economic evaluations have been completed and that the proposal is economically viable and needed in the marketplace. The economic effect this marina expansion may have on other existing/proposed area marinas is too attenuated for the purpose of our statutory regulatory authorities to be considered in this document.

According to U.S. Census Bureau figures, the population of Knox County in the year 2000 was 382,032. Census estimates for the year 2003 indicate that Knox County's population was 392,995, i.e., a 2.9% increase. The county's population percent change was higher than the state's (2.7%) during this period. Based on a moderate-growth model, county population projections for the years 2010, 2020, and 2030 are 429,730, 478,232, and 525,940, in that order. These populations projections represent growth rates measured from the 2000 base year of approximately 12.5, 25.2, and 37.7%, respectively.

Boat sales and operation in Tennessee have steadily increased over the last decades and are expected to continue growing at a good rate. The existing and proposed marina expansion would help fill the need for additional boat moorage, storage, and service in the Fort Loudoun Reservoir area. The improvements would contribute to a more positive recreational experience for marina tenants and the visiting public, which would likely result in long-term additional revenues to Choto and increased sales tax revenue for Knox County. In addition, the proposal would provide a short-term stimulus to the local economy from the related sales of goods and services in support of construction.

Area property owners have expressed particular concerns that the marina expansion and establishment of new harbor limits would adversely affect their property values. The Amerson and Conner families have indicated that they have invested substantial amounts in house renovations. The marina has existed at this location for many years and adjacent property owners were or should have been aware of the potential for continued expansion. Varying opinions exist among land appraisal experts, developers, real estate companies, and property owners concerning potential impacts of facilities such as the existing and proposed on residential property values. Potential economic effects to residential property values in the immediate area are speculative and would depend on market demand.

(x) general environmental concerns - This is a broad factor almost synonymous with the area's quality of life. All the relevant issues falling under this heading have been evaluated in this document. Special conditions have been added to minimize the unavoidable adverse environmental impacts identified.

(x) mineral needs - The existing and proposed action would have no effect on mineral needs.

(x) consideration of private property - USACE regulations at 33 CFR 320.4(g) state that work authorizations by the DA does not convey any property rights, either in real estate or material, or any exclusive privileges. Furthermore, neither DA nor TVA permits authorize any injury to property or invasion of rights or any infringement of federal, state or local laws or regulations. The same USACE regulation also states that a riparian landowner has a general right of access to navigable waters of the U.S. However, this right of access is weighed through the DA public interest review process against the similar rights of access held by nearby riparian landowners and to the general public's right of navigation on the water surface. We have made a concerted effort to ensure, and are satisfied, that private property rights have been adequately considered in this review and that reasonable water access to the Amerson, Conner, Engleman, and Batson properties has been preserved.

(x) floodplain values - Knox County participates in the National Flood Insurance Program administered by the Federal Emergency Management Agency (FEMA). The existing and proposed action is located within the 100-year, FEMA-mapped floodplain. The proposal would not alter land use classifications and is compatible with repetitive uses for which the floodplain is suitable. Potential impacts to or within the floodplain have been minimized to the extent practicable. Consequently, the existing and proposed work would comply with Executive Order 11988 (Floodplain Management).

3.5 Cumulative and Secondary Impacts. The Council on Environmental Quality regulations define cumulative impact as "the environmental impact which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time." The USACE considers every DA permit application on its own merits and assesses its environmental impacts within the proper scope of review for NEPA purposes. As indicated in Section 1.5, the scope of analysis for this DA permit application is limited to the Permit Area, which includes the existing and proposed marina facilities, shoreline and near-shoreline areas, and uplands immediately adjacent to the work and directly affected because of authorizing the existing and proposed activities. The site of a proposed restaurant and associated amenities to be located on the southeast quadrant of the cove is outside the permit area for this DA permit application.

There are approximately six commercial marinas within 12 miles of the site. No permits have been issued for new marinas in at least 20 years; however, expansions have been permitted at many of those marinas. As lakefront properties continue to develop and boating interest rises, more expansions to existing marinas and construction of additional marinas and community boat docks would likely occur. Based on information provided by TVA, future construction of marinas and community docks could be evaluated for impacts on recreational boating traffic capacity. If a decision is made to issue this or any future DA permit, special permit conditions will be incorporated to minimize on-site impacts to the extent practicable. When considering the impacts from past, present, and reasonably foreseeable future proposals, the cumulative and secondary impacts from this proposal are considered minor.

4.0 Alternatives

4.1 Introduction. This section discusses alternatives as required by USACE and TVA permit regulations and by the National Environmental Policy Act (NEPA). The USACE requirements regarding alternatives are found at 33 CFR 320.4(a)(2)(ii) and 40 CFR 230.10. The relevant environmental issues identified in Section 3.0 were used to formulate the alternatives. The alternatives that were given detailed consideration are listed in Section 4.2. Alternatives not considered in detail are described in Section 4.4.

4.2 Description of Alternatives.

4.2.1 No Action. This alternative is one that results in no construction or work requiring a DA or TVA permit. No Action may be brought by (a) Choto electing to modify its proposal to avoid jurisdictional work, i.e., construction of water-use facilities lakeward of the 813 contour, or (b) by denial of the permit. Since some of the facilities have been previously constructed, the no action alternative would require that they be removed.

4.2.2 Applicant's Proposal. This alternative consists of the revised proposal described in Section 1.2 (Project Changes).

4.2.3 Applicant's Proposal with Mitigation. This alternative consists of the Applicant's Proposal identified in Section 4.2.2 above with the inclusion of special conditions to minimize the unavoidable environmental impacts to the maximum extent practicable.

4.3 Comparison of Alternatives.

4.3.1 No Action. This alternative would result if construction of the marina expansion and establishment of new harbor limits does not occur. No Action would be brought about by a DA or TVA permit denial. The potential environmental impacts described in Section 3.0 would not occur. Conversely, the expected socioeconomic benefits also described in that section would not be achieved. With No Action, the marina operation as it presently exists would likely continue. Selection of the No Action alternative would not satisfy Choto's stated purpose and need which is to expand its commercial marina operation and harbor limits.

4.3.2 Applicant's Proposal. The existing and proposed action described in Section 1.2 would have various potentially adverse environmental impacts and potentially adverse and beneficial socioeconomic impacts. These potential adverse and beneficial effects have been described in Section 3.0 above.

4.3.3 Applicant's Proposal with Mitigation. This alternative would result in similar impacts/benefits to the alternative described in Section 4.3.2 above. Special permit conditions have been developed and recommended (see below) to minimize the impacts identified to the extent practicable. The recommended conditions are reasonably enforceable and would afford appropriate and practicable environmental protection. Conditions have been specifically added to minimize adverse impacts on navigation, safety, and water quality.

The following recommended special permit conditions and/or commitments are necessary to satisfy legal and public interest requirements. Some of these conditions help clarify the permit application and afford appropriate and practicable environmental protection.

- The work must be conducted in accordance with the plans and information submitted in support of the proposed work, as attached. Justification: *Clarify the permit application.*
- You must have a copy of this permit available on the site and ensure all contractors are aware of its conditions and abide by them. *Recommended at 33 CFR 325, Appendix A.*
- An on-site preconstruction meeting must be held among representatives of the USACE, TVA, and contractor(s) to discuss the conditions of this permit. You should contact Mr. Ruben Hernandez of this office, telephone (615) 369-7519, to arrange the required meeting. *Clarify the permit terms and conditions.*
- Your use of the permitted activity must not interfere with the public's right to free navigation on all navigable waters of the United States. *Recommended at 33 CFR 325, Appendix A.*
- Any floating plant and/or craft engaged in the construction activities must display lights and signals compliant with requirements of the current "Inland Navigation Rules" and must be positioned so as to provide maximum horizontal navigational clearance in the harbor at all times. *Public interest requirement to protect navigation.*
- The disturbance to riparian vegetation shall be kept to a minimum during construction. *Minimize impacts on wildlife habitat, water quality, and the aquatic environment.*
- All lights used (including headlights and pole-, equipment-, or structure-mounted floodlights) will be fully shielded or have internal low-glare optics, such that no light is emitted from the fixture at angles above the horizontal. For construction this may require temporary retrofitted headlights, floodlights, and other fixtures with external visors and side-shields. Shielded Low Pressure Sodium will be used during the construction and operational phases. *Public interest requirement (safety).*
- You hereby recognize the possibility that the structures permitted herein may be subject to damage by wave wash from passing vessels. The issuance of this permit does not relieve you from taking all proper steps to ensure the integrity of the structures and the safety of boats moored thereto from damage by wave wash and you shall not hold the United States liable for any such damage. *Public interest requirement (safety).*
- The proposed "Ship Store and Fuel Dock" must not project beyond the 300' set back control point established on the south shoreline near the Chris Brown property. *Public interest requirement (protect navigation).*
- No mooring will occur along the east side of the "Ship Store and Fuel Dock" or along the back side of "D" or "E" docks. *Public interest requirement (protect the right to reasonable navigation access).*
- No mooring will occur within the Gerald Victory property frontage. In addition, you must immediately remove all existing piers and moored boats from this area. *Public interest requirement (protect right to reasonable navigation access).*

- The north side of Existing "E" Dock has an offset of 14.5' relative to the north side (back) of Existing "D" Dock Extension. The existing offset shall be reduced to 7.5' before July 1, 2005. *Public interest requirement (protect the right to reasonable navigation access).*

- You must institute and maintain a strict erosion and sediment control program for the life of the project and ensure that all disturbed areas are properly seeded, riprapped, or otherwise stabilized as soon as practicable to prevent erosion. *Minimize impacts on water quality and the aquatic environment.*

- A certified "as-built" drawing of all the docking and water-use facilities based on a true scale cove map shall be furnished this office within 60 days of completion of construction showing all final locations, dimensions (lengths, widths, heights), and materials. The cove map may be developed from actual field measurements or from a rectified aerial photograph. *Public interest requirement (protect navigation).*

4.4 Alternatives not Considered in Detail. Other practicable alternatives exist which would involve different designs (size, shape, height), materials (metal, composites, etc.), or locations within the cove. However, these proposals would result in a degree of impact commensurate with or greater than, the impacts of the existing and proposed action. All of the alternative designs would require DA/TVA permits and would be subject to the agencies' review processes. In addition, these alternatives might not satisfy the applicant's purpose and need.

Appendix A
Joint Public Notice



**US Army Corps
of Engineers®**
Nashville District

Public Notice

Public Notice No. 04-48

Date: July 29, 2003

Application No. 200401142

Please address all comments to:
Regulatory Branch, 3701 Bell Road, Nashville, TN 37214-2660

JOINT PUBLIC NOTICE
US ARMY CORPS OF ENGINEERS
AND
TENNESSEE VALLEY AUTHORITY

SUBJECT: Existing Floating Docks and Proposed Commercial Marina Expansion at Mile 612.5, Right Bank, Tennessee River, in Knox County, Tennessee

TO ALL CONCERNED: The application described below has been submitted for a Department of the Army (DA) Permit pursuant to **Section 10 of the Rivers and Harbors Act of 1899 (33 USC 403)**.

APPLICANT: MEJ Properties, LLC
DBA Choto Marina
12214 Choto Marina Way
Knoxville, Tennessee 37922

LOCATION: Choto Marine Cove, opposite Mile 612.5, right bank, Tennessee River (Fort Loudoun Reservoir), in Knox County, Tennessee, USGS Concord-TN 7.5 Minute Series Quadrangle Map, Lat 35° 49' 11", Long 84° 08' 47". See Exhibit A.

DESCRIPTION: The proposed work consists of the construction of new floating docks and expansion of harbor limits. After-the-fact approval would be necessary for segments of the floating docks that are already on site in temporary locations at the marina. The existing dock segments would be elements of the proposed floating docks described in this notice. Details of the existing and proposed work are offered below. See Exhibits B-E.

a. Existing Dock Segments. Segments of new floating docks are already on site in front of the Joe and Brenda King property. These segments would be moved to locations where new floating docks would be constructed and used as elements of those docks.

b. Proposed Floating Docks. The applicant proposes to construct 37 new boat slips. Dock construction would consist of galvanized steel framing, pressure-treated wood deck, encased flotation, galvanized steel roof with color panels, and pipe piling anchorage. The ship store and fuel dock would also use cable deadmen for anchorage.

- Ship Store and Fuel Dock. This structure would be located at the downstream end of the "J" Dock. Seven uncovered slips would be included with the ship store. The ship store and fuel dock would measure approximately 134' wide by 114' deep.

- "J" Dock Extension. Four covered slips (16' wide x 40' deep) would be added on the downstream end of "J" Dock (upstream of the ship store). The height of the roof would be 16'.

- Dry Stack Holding/Service Dock. This dock would be located at the upstream end of existing "D" Dock. Work would involve construction of four new covered slips (3 @ 18' wide x 50' deep and one @ 20' wide x 60' deep). The roof of the covered slips would be 18' in height. The existing fuel dock would be renovated and a sewage pump-out added. The overall dimensions of the renovated fuel/pump-out dock would be 12'x60'.

- "D" Dock. Nineteen covered slips would be built between the existing "D" dock and new "E" dock. Twelve of the slips would measure 16' wide x 36' deep x 20' high and seven slips would measure 12' wide x 32' deep x 12' high.

- "E" Dock. Three covered slips would be added at the downstream end of the new "D" dock. The slips would measure 16' wide x 48' deep x 20' high.

- Floating Pier (Gangway). A 4'x150' floating pier would be built close to the shoreline in front of the Gerald Victory property. The pier would start approximately 35' east of the Jim Amerson property limit.

c. Harbor Limits Expansion. The applicant has requested several changes to the current harbor limits as shown on the public notice drawings.

Plans of the existing and proposed work are attached to this notice.

The decision whether to issue a permit will be based on an evaluation of the probable impacts including cumulative impacts of the activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people. A permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this existing and proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the existing and proposed activity.

An Environmental Assessment will be prepared by this office before a final decision concerning issuance or denial of the requested Department of the Army Permit.

The National Register of Historic Places has been consulted and no properties listed in or eligible for the National Register are known which would be affected by the work. This review constitutes the full extent of cultural resources investigations unless comment to this notice is received documenting that significant sites or properties exist which may be affected by this work, or that adequately documents that a potential exists for the location of significant sites or properties within the permit area. Copies of this notice are being sent to the office of the State Historic Preservation Officer.

Based on available information, the existing and proposed work will not destroy or endanger any federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act. Therefore, we have reached a no effect determination, and initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

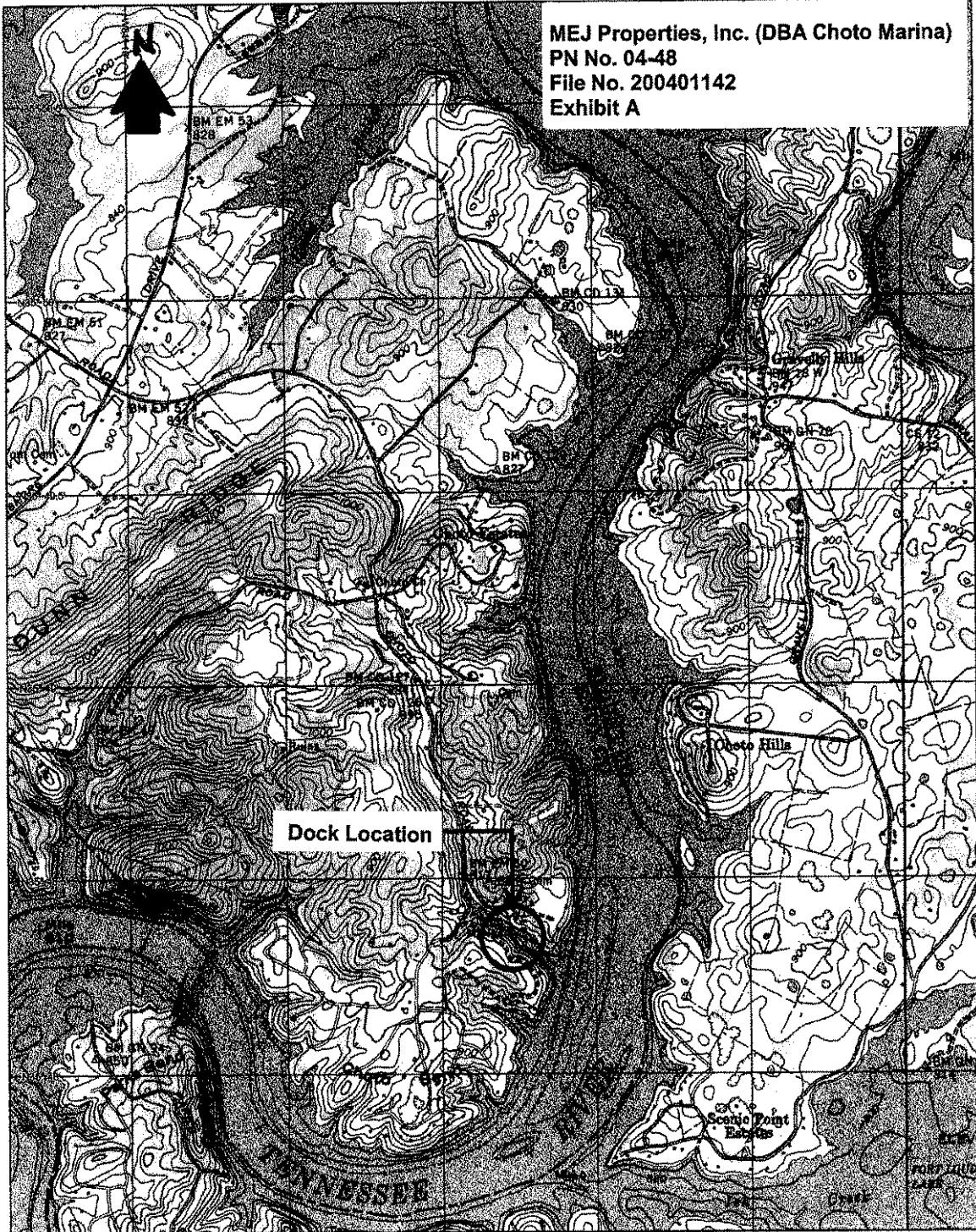
Other federal, state, and/or local approvals required for the existing and proposed work are as follows:

- Tennessee Valley Authority (TVA) approval under Section 26a of the TVA Act. In addition to other provisions of its approval, TVA would require the applicant to employ best management practices to control erosion and sedimentation, as necessary, to prevent adverse aquatic impacts.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

Written statements received in this office on or before August 28, 2004, will become a part of the record and will be considered in the determination. Any response to this notice should be directed to the Regulatory Branch, Attention: J. Ruben Hernandez, at the above address, telephone (615) 369-7519. It is not necessary to comment separately to TVA since copies of all comments will be sent to that agency and will become part of its record on the proposal. However, if comments are sent to TVA, they should be mailed to Little Tennessee Watershed Team, Attention: Gary Pettway, Suite 300, 804 Highway 321 North, Lenoir City, Tennessee 37771-6440.

MEJ Properties, Inc. (DBA Choto Marina)
PN No. 04-48
File No. 200401142
Exhibit A



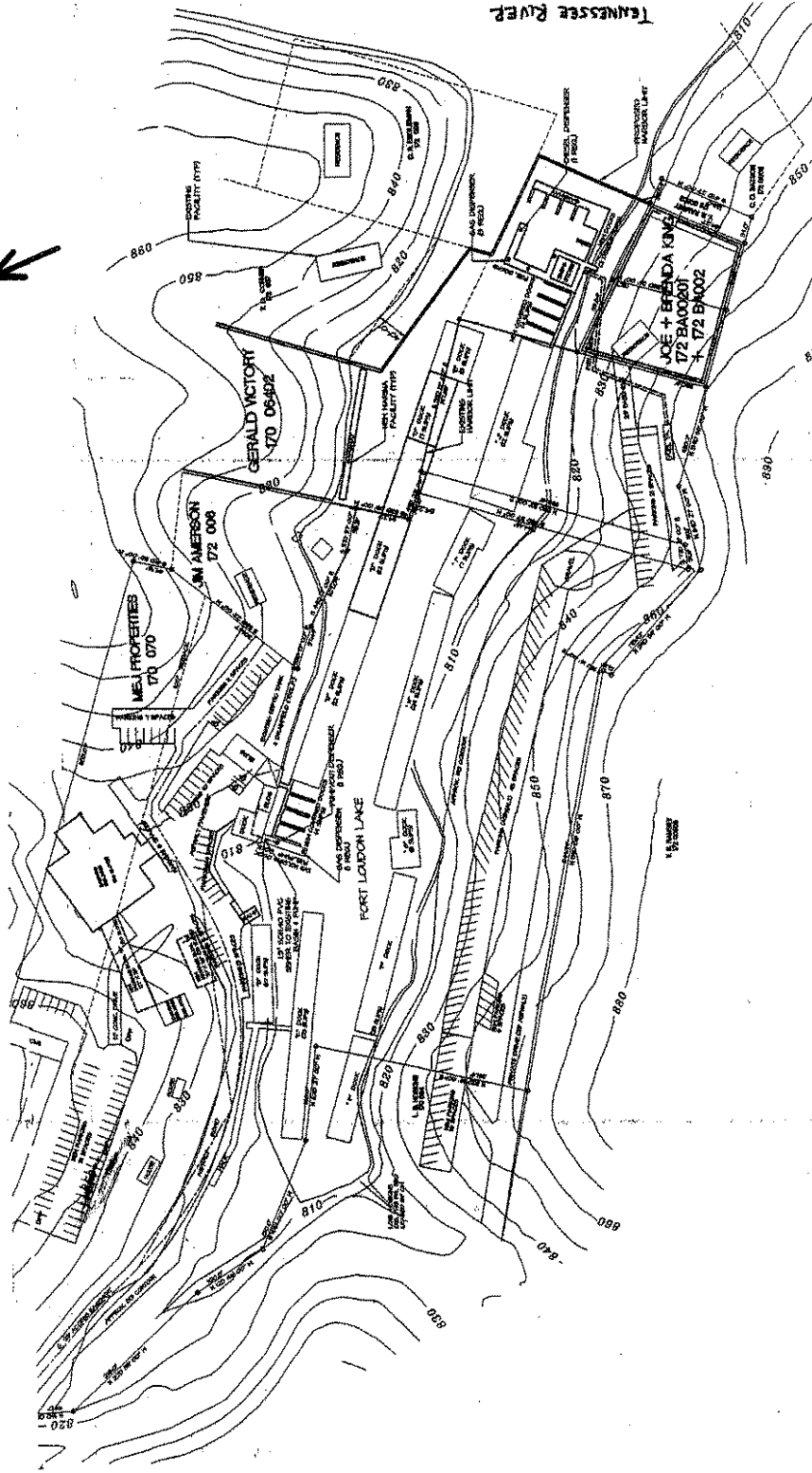
3-D TopoQuads Copyright © 1999 DeLorme Yarmouth, ME 04096 Source Data: USGS 950 ft Scale: 1 : 24,000 Detail: 13-0 Datum: WGS84

MEJ Properties, Inc. (DBA Choto Marina)

PN No. 04-48

File No. 200401142

Exhibit B



EXISTING & PROPOSED MARINA LAYOUT
N.T.S.

[illegible]

MEU PROTECTOR

170 070

PARKING 7 SPACES

MATCH LINE B

PARKING 11 SPACES

EXISTING SEPTIC TANK
DRAINFIELD

D. DOCK
(12 SLIPS)

24 SLIPS

819

(1 REG)
FORT LOUDON LAKE

---GAS DISPENSER (1 REQ.)

PUMP/OUT DI
R (1 REQ.)

15" SCH.40 PVC
SEWER TO EXISTING
BASIN & PUMP-

C. DOCK
(25 SLIPS)

4. dock

25 SLIPS)

820

1800
HOECHST

830

1

1

/

March 11

1

1

1

/

1

17

9

3

HOECH 1004

Appendix B
Site Inspection

19 May 2005

MEMORANDUM FOR RECORD

Purpose: Permit Processing Site Inspection

File No. 200401142

Applicant: MEJ Properties, LLC (DBA Choto Marina)

Work: Existing and Proposed Docks

Location: At mile 612.5, right bank, Tennessee River,
in Knox County, Tennessee

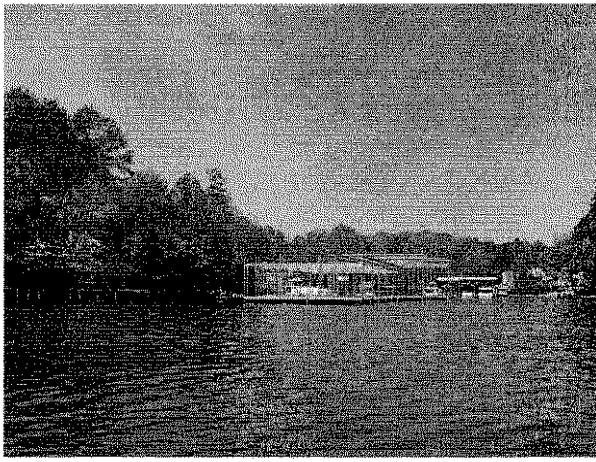
Date of Inspection: 15 April 2004

Photos Taken? Yes (attached)

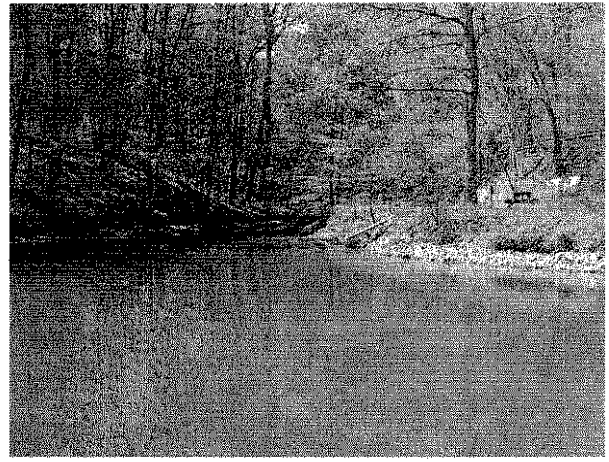
1. On 15 April 2004, I conducted an inspection of the above-described site aboard the Corps' EFO boat. I was accompanied by EFO and TVA personnel (Little Tennessee Watershed Team). We arrived at the site shortly after 1100.
2. We observed the unfinished floating dock segments Choto has constructed within the marina. Some of the dock segments are located in front of the Joe and Brenda King property. Choto has asserted that they obtained verbal approval to build them from Jack Miller (TVA). TVA denies this claim.
3. The cove is surrounded by seasonal and occupied residential structures with a mixture of maintained lawns and overgrown lots. The marina office, dry stack, maintenance, and storage buildings, and several parking lots are located a short distance from the water along the north shore near the head of the cove. Extensive vegetative cover (trees, shrubs, grasses, etc.) was evident along the riparian zone. Recent vegetation clearing and riprap placement was noticed along the north shore west of the dry stack and storage buildings.
4. The inspection concluded before noon.

J. Ruben Hernandez
Project Manager
Operations Division

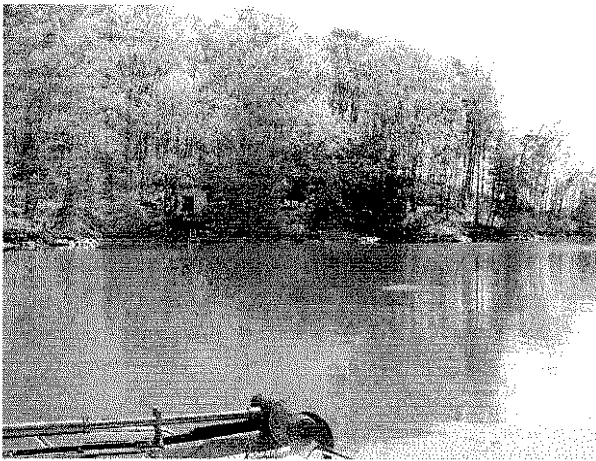
Encls



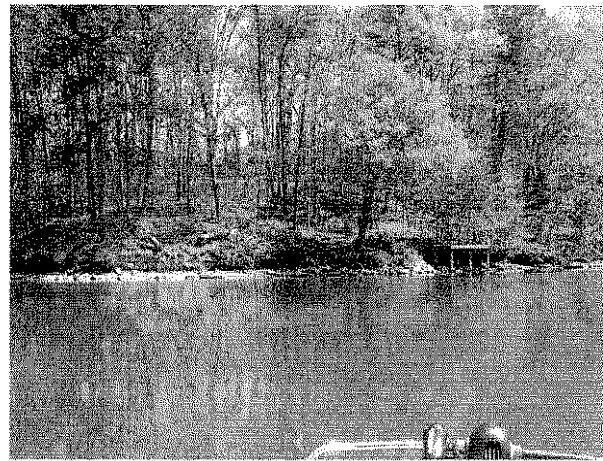
Looking west from main channel



Head of cove looking west

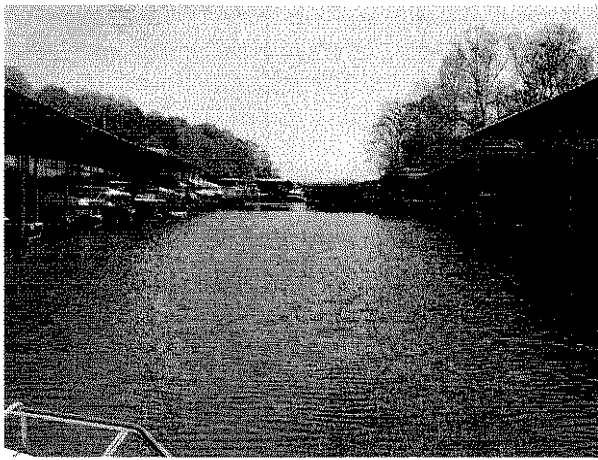


Conner's property looking
northeast

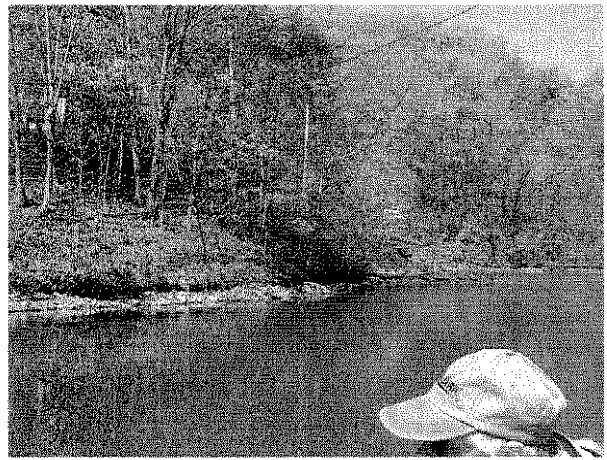


Victory property looking
northeast

J. RUBEN HERNANDEZ
Applicant: Choto Marina
File No. 200401142
15 April 2004

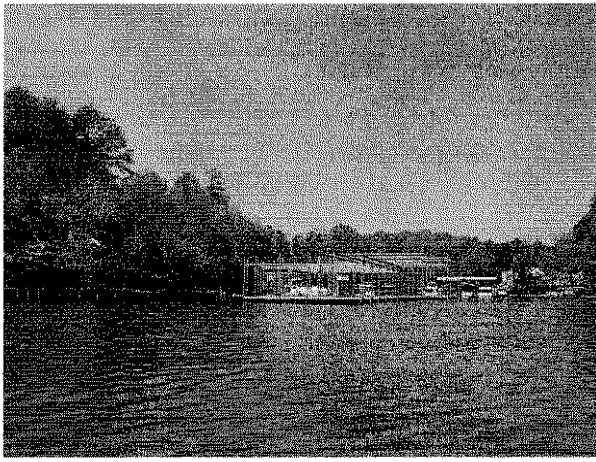


Interior harbor looking east
toward mouth of cove

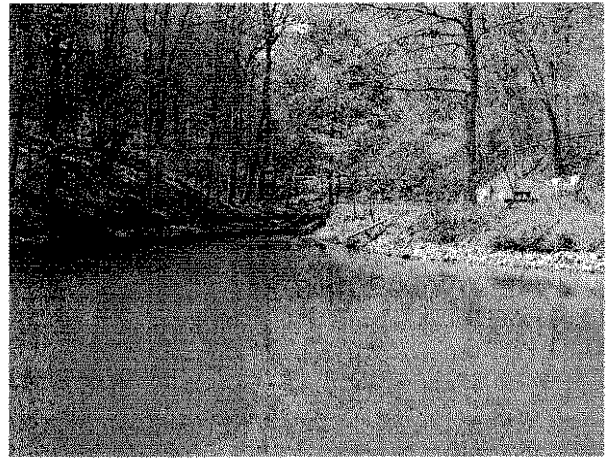


Batson property looking west

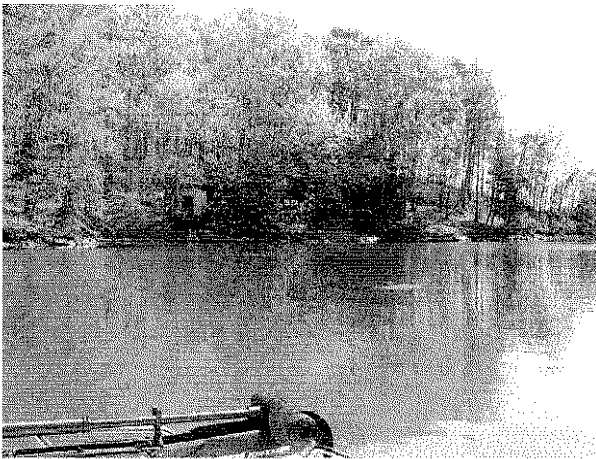
J. RUBEN HERNANDEZ
Applicant: Choto Marina
File No. 200401142
15 April 2004



Looking west from main channel



Head of cove looking west

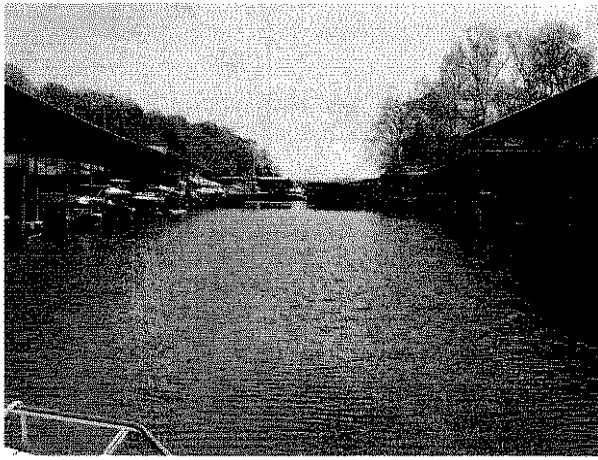


Conner's property looking
northeast

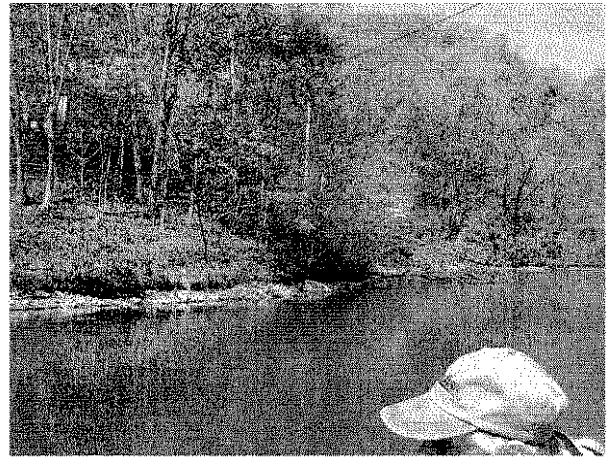


Victory property looking
northeast

J. RUBEN HERNANDEZ
Applicant: Choto Marina
File No. 200401142
15 April 2004



Interior harbor looking east
toward mouth of cove



Batson property looking west

Appendix C
Public Responses

September 8, 2004

Regulatory Branch (1145b1)

SUBJECT: File No. 200401142; Proposed Commercial Marina Expansion at Mile 612.5, Right Bank, Tennessee River, in Knox County, Tennessee

Mr. Mitchell Jones, Chief Manager
Choto Marina
12214 Choto Marina Way
Knoxville, Tennessee 37922

Dear Mr. Jones:

Enclosed is a summary, supplemented with selected copies of the substantive comments we have received in response to the public notice associated with your proposal. We received 67 objections to the notice. In addition, several commenters requested that a public hearing be held to consider your application.

We have determined that your input (views and/or supplemental information) on the following issues is essential before we can make a final decision on your permit application.

a. General Safety - Do you have a written Emergency Plan addressing your response to emergencies that could reasonably be expected, e.g., fires, chemical accidents, high water, etc? The plan should include sections on reporting (notification tree) and evacuation.

b. Water Quality - Concerns have been expressed over accidents and spills involving the proposed fuel storage and dispensing stations. Have you developed a Spill Contingency and Countermeasure Plan for the marina with special emphasis on control and containment measures at the fuel storage and dispensing areas? You should have commercial grade fuel containment equipment on hand so that spilled contaminants can be contained in a limited area.

c. Congestion, Property Access, etc. - Commenters have alluded to the undue interference of the proposed structures on access to, or use of, navigable waters by the Amerson, Conner, Engleman, and Batson families. Please provide your views and/or opinions regarding this issue.

CERTIFIED MAIL - RETURN RECEIPT REQUESTED

SEP 08 2004

JRA

d. Codes and Zoning - Commenters believe that the proposed facilities would be too close to some of the neighboring residences in violation of zoning rules. Please give us your point of view and provide evidence that the proposed facilities comply with all local codes and regulations.

e. Navigation Safety - Many commenters have indicated that the proposed dock configuration could result in safety problems while entering and exiting the facility due to the excessive extension of the ship store/fuel dock, location of new docks "D" and "E", and narrowness of the internal harbor channel.

f. Noise and Aesthetics- As you know, several private residents live in proximity to the marina. Please indicate what measures you intend to take to minimize noise impacts, particularly during early morning and late evening/night hours. Since the height of the proposed docks would likely obstruct the view of some lake residents, could you lower the height of the docks to address this issue?

g. Highway Traffic - Please provide information on expected vehicular and truck traffic increases on Choto Road due to the proposed expansion. Would the transportation of large boats and/or yachts to and from the marina occur by land (Choto Road) or water? Has Knox County scheduled safety/geometric improvements for the segment of Choto Road between Lakeshore Drive and the site? What do you plan to do to alleviate traffic problems?

h. A few commenters suggested the possibility that on-board living or non-navigable houseboats would occur at the marina. Please respond to this allegation.

It is our policy to refer all objections/comments to work in waters of the United States to the applicant to afford an opportunity to resolve or rebut the objections/comments. You may voluntarily elect to contact the objectors in an attempt to resolve the objections, but you will not be required to do so.

Whether you are successful or not in resolving the objections, I would appreciate receiving your specific comments on the various points raised by them within 30 days of your receipt of this letter. If you require more time to gather and submit this information, you should contact us and provide supporting justification why the additional time is necessary.

We will continue evaluating your application while we await receipt of the requested information. If changes in the location or plans of the proposed work result from your attempts to minimize impacts or from your discussions with the objectors, please submit the revisions promptly to this office.

gjh

Please note that should you fail to provide the requested information or justify the need for additional time, we will consider your application withdrawn. However, should we obtain sufficient information on these issues from other sources during this time, we may be able to reach a final permit decision in lieu of withdrawing your application.

If you have any questions, please contact me at the above address or call (615) 369-7519.

Sincerely,



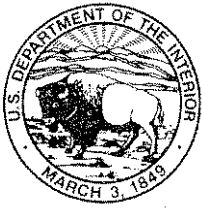
J. Ruben Hernandez
Project Manager
Operations Division

Enclosures

Copy Furnished:

Mr. Gary Pettway
Tennessee Valley Authority
Suite 300, 804 Highway 321 North
Lenoir City, Tennessee 37771-6440

CERTIFIED MAIL - RETURN RECEIPT REQUESTED



United States Department of the Interior

FISH AND WILDLIFE SERVICE

446 Neal Street
Cookeville, TN 38501

August 26, 2004

AUG 30 2004

Lt. Colonel Byron G. Jorns
District Engineer
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, Tennessee 37214

Attention: Mr. J. Ruben Hernandez, Regulatory Branch

Subject: Public Notice No. 04-48. MEJ Properties, Existing Floating Docks and Proposed Commercial Marina Expansion at Tennessee River Mile 612.5, Right Bank, Knox County, Tennessee.

Dear Colonel Jorns:

Fish and Wildlife Service personnel have reviewed the subject public notice. The proposed project would involve the construction of new floating docks and the expansion of current harbor limits at Tennessee River Mile 612.5, Right Bank, Knox County, Tennessee. After-the-fact approval would also be required for previously constructed segments of floating docks that are currently on site in temporary locations at the marina. Included in the proposed project would be the construction of five docks of various sizes, a dock extension, and a floating pier. The following constitute the comments of the U.S. Department of the Interior, provided in accordance with provisions of the Fish and Wildlife Coordination Act (48 Stat. 401, as amended; 16 U.S.C. 661 et seq.) and the Endangered Species Act (87 Stat. 884, as amended; 16 U.S.C. 1531 et seq.).

Endangered species collection records available to the Service do not indicate that federally listed or proposed endangered or threatened species occur within the impact area of the project. We note, however, that collection records available to the Service may not be all-inclusive. Our data base is a compilation of collection records made available by various individuals and resource agencies. This information is seldom based on comprehensive surveys of all potential habitat and thus does not necessarily provide conclusive evidence that protected species are present or absent at a specific locality. However, based on the best information available at this time, we believe that the requirements of section 7 of the Endangered Species Act of 1973, as amended, are fulfilled. Obligations under section 7 of the Act must be reconsidered if (1) new information reveals impacts of the action that may affect listed species or critical habitat in a manner not previously considered, (2) the action is subsequently modified to include activities which were not considered during this

consultation, or (3) new species are listed or critical habitat designated that might be affected by the action.

We do not anticipate significant adverse impacts to fish and wildlife or their habitats as a result of this project. Therefore, the Service has no objection to after-the-fact approval for the previously constructed docks or the issuance of a permit for the proposed work described in the subject public notice.

Thank you for this opportunity to review the subject notice. Please contact Robbie Sykes of my staff at 931/528-6481 (ext. 209) if you have questions about these comments.

Sincerely,

A handwritten signature in cursive script, reading "Lee A. Barclay".

Lee A. Barclay, Ph.D.
Field Supervisor

xc: Robert Todd, TWRA, Nashville, TN
Dan Eagar, TDEC, Nashville, TN
Stephanie Fulton, EPA, Atlanta, GA



TENNESSEE HISTORICAL COMMISSION
DEPARTMENT OF ENVIRONMENT AND CONSERVATION
2941 LEBANON ROAD
NASHVILLE, TN 37243-0442
(615) 532-1550

August 5, 2004

Mr. J. Ruben Hernandez
U.S. Army Corps of Engineers, Nashville District
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214

RE: COE-N, PN# 04-48/CHOTO MARINA/TRM 612.5R, KNOXVILLE, KNOX COUNTY

Dear Mr. Hernandez:

The Tennessee State Historic Preservation Office has reviewed the above-referenced undertaking received on Monday, August 2, 2004 for compliance by the participating federal agency or applicant for federal assistance with Section 106 of the National Historic Preservation Act. The Procedures for implementing Section 106 of the Act are codified at 36 CFR 800 (Federal Register, December 12, 2000, 77698-77739).

After considering the documentation submitted, it is our opinion that there are no National Register of Historic Places listed or eligible properties affected by this undertaking. This determination is made either because of the location, scope and/or nature of the undertaking, and/or because of the size of the area of potential effect; or because no listed or eligible properties exist in the area of potential effect; or because the undertaking will not alter any characteristics of an identified eligible or listed property that qualify the property for listing in the National Register or alter such property's location, setting or use. Therefore, this office has no objections to your proceeding with the project.

If you are applying for federal funds, license or permit, you should submit this letter as evidence of compliance with Section 106 to the appropriate federal agency, which, in turn, should contact this office as required by 36 CFR 800. You may direct questions or comments to Jennifer M. Barnett (615) 741-1588, ext. 17. This office appreciates your cooperation.

Sincerely,

Herbert L. Harper
Executive Director and
Deputy State Historic
Preservation Officer

AUG 09 2004

HLH/jmb

17 August 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

Tennessee Valley Authority
Gary Pettway
804 Hwy 321 North
Lenoir City, TN 37771

Dear Gentlemen,

This is in response to the proposed development & expansion of Choto Marina located in Knoxville Tennessee.

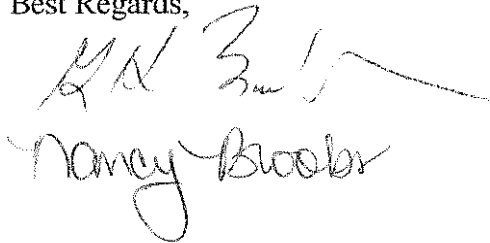
The marina is currently being renovated to accommodate a growing number of boating enthusiasts that may or may not be able to live on the water. Choto Marina is serious about providing a safe & family friendly atmosphere for all of us to enjoy & without question takes pride in providing a quality service.

We are sending this letter to demonstrate our support for the new gas dock facility, ship store, restaurant & additional slips that are currently planned for 2005.

We have seen many improvements to the facility & are satisfied that the marina management takes pride in providing a quality facility.

We thank you for your support in this effort & look forward to the 2005 boating season.

Best Regards,


Nancy Broobr

SEP 13 2004

08/17/04

US Army Corp of Engineers
Reuben Hernandez
3701 Bell Rd.
Nashville, TN 37214

RE: Development at Choto Marina (Knoxville, TN)

Dear Reuben,

I have been watching the great face lift that has been taking place at Choto Marina, since it incurred new ownership. I have lived less than a mile from the marina for the last thirteen years. I am very excited about its ongoing development of new gas docks, restaurants, and a ships' store. I have reviewed the planned additions and am very much in favor of their approval.

Sincerely,

A handwritten signature in black ink, appearing to be "S. Brown", followed by a long, wavy horizontal line.

Dr. Scott Brown

AUG 20 2004

Richard M. Bowles, D.D.S., P.A.

SPECIALIST IN ORTHODONTICS

TYSON MEDICAL COMPLEX
309-C CONCORD STREET
KNOXVILLE, TENNESSEE 37919
865-546-0792 • FAX 865-546-0877

BROADWAY PROFESSIONAL BLDG.
327 W. BROADWAY
MARYVILLE, TENNESSEE 37801
865-982-5330 • FAX 865-546-0877

August 19, 2004

Mr. J. Ruben Hernandez
Project Manager
Regulatory Branch
U.S. Army Corps of Engineers
3701 Bell Rd.
Nashville, TN 37214-2660

AUG 23 2004

Dear Mr. Hernandez,

I would like to acknowledge my support of Choto's Marinas new expansion plans, which will result in much needed improvements to the Marina and its surrounding area. Some of these include the building of a new restaurant, relocating the Gas Dock and Ship Store, and constructing additional boat slips with on water parking.

Choto Marina's staff (Mitchell Jones and Greg Steele) have proven to be more than capable of providing significant improvements as demonstrated by recent changes in the Marina's infrastructure. I look forward to seeing Choto Marina move in the right direction.

Sincerely,



Richard M. Bowles, D.D.S., M.S.

RMB:jh

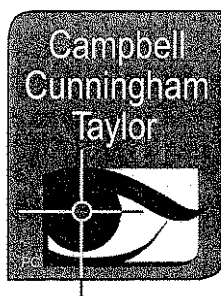
Member American Association of Orthodontists



Philip D. Campbell, MD
Laser Vision Correction
Cataract & Consultative
Ophthalmology

Leslie B. Cunningham, MD
Laser Vision Correction
Cataract & Consultative
Ophthalmology

C. Tobin Taylor, MD
Cataract Microsurgery &
Consultative Ophthalmology



Vic Khemsara, MD
Early & Advanced Glaucoma
Treatment
Cataract & Consultative
Ophthalmology

C. Allyn Hildebrand, OD
Consultative Optometry

Daniel C. Horton, OD
Consultative Optometry

August 18, 2004

U.S. Army Corps of Engineers
Mr. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

AUG 26 2004

Dear Mr. Hernandez:

I am writing in support of Mitchell Jones' request to expand the facilities at Choto Marina on Choto Road. I am a resident of this neighborhood as well as a longtime customer of Choto Marina. As you know, this marina has suffered in the past from lack of improvement and upgrade to facilities that have resulted in some unsightly areas as well as some working and boating areas that are unsafe.

My understanding is that Mr. Jones wants to put in some additional slips as well as a ship store and a nice restaurant. I think these facilities are badly needed and will improve the quality of the facility at Choto Marina and overall add to the quality of the recreational boating experience, not only for Choto tenants and customers but also for other boaters who frequent this marina for dining, gasoline, and ship store purchases. Mr. Jones has already demonstrated that he is willing to spend money to upgrade the facilities as evidenced by the work that has been done thus far modernizing and improving some of the dilapidated docks and facilities that existed prior to this ownership.

In summary, I feel that the additions and upgrades that have been petitioned for with TVA and the U.S. Army Corps of Engineers are both necessary and will add in a very positive way to the overall quality of the recreational boating experience on Fort Loudon lake. I do not see how this will be detrimental in any way to residents of the neighborhoods in the Choto area or surrounding areas. I am personally building a home just up the street from Choto Marina and would certainly not be in favor of this if I felt like it would have a negative impact in any way.

Thank you so much for your kind attention to this letter. I am certainly available to speak by phone at any time at the above listed numbers.

Sincerely,


Leslie B. Cunningham, M.D.

LBC/sv

cc: Mitchell Jones, Choto Marina, Choto Marina Road, Knoxville, TN 37922

Knoxville
1124 Weisgarber Road, Ste. 100
Knoxville, TN 37909
(865) 584-0905
Fax (865) 584-3892

Maryville
614 Smithview Drive
Maryville, TN 37803
(865) 984-7012
Fax (865) 981-4401

Loudon
901 Grove Street
Loudon, TN 37774
(865) 458-1776
Fax (865) 458-0425

Sevierville
120 East Bruce Street
Sevierville, TN 37862
(865) 453-2025
Fax (865) 429-1240

LaFollette
2751 W. Central, Ste. 2
Jacksboro, TN 37747
(423) 566-2020
Fax (423) 566-4245

August 24, 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

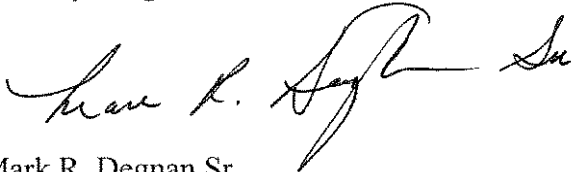
Dear Mr. Hernandez:

I am writing this letter in support of the Choto Marina proposed development and expansion project.

For the past five years I have rented a slip at Choto Marina. The improvements and accomplishments that the present management has made to the property in the past two years has been nothing short of impressive. The amount of time, effort and monies that have been invested at the Marina is refreshing to us family oriented boaters.

Thank you in advance for your continued support and hard work invested in this project by you and your department.

Thank you again,

A handwritten signature in cursive script, appearing to read "Mark R. Degan Sr.", written in dark ink.

Mark R. Degan Sr.
865-671-3555

AUG 25 2004

Aug 30 04 11:13a Choto Marina 300 300 1757 p.1

August 29, 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

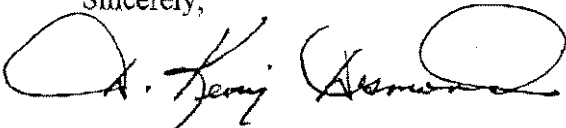
Dear Mr. Hernandez:

I am Vice President of the Channel Point Homeowners Association and our subdivision is in very close proximity to Choto Marina. I am faxing to you along with this letter numerous letters of support from my fellow neighbors in Channel Point regarding the work and development going on at Choto Marina. We feel that the improvements at the marina will enhance this area and our property values.

A few weeks ago an unknown person or persons put a pre-typed letter in all of the mailboxes in our neighborhood that requested we oppose the updating and improving of Choto Marina. Being an unsigned letter with a pre-addressed envelope attached, many in our neighborhood assumed that the board of directors of the neighborhood had put this notice in our boxes requesting these letters be signed and sent on or before August 28, 2004 to your attention. After personally meeting with roughly half of our neighborhood and discussing Choto Marina, I find support to be virtually unanimous in favor of the marina renovations. I personally feel that any letters you received dated August 23, 2004 and referring to Public Notice Number 04-48, Application Number 200401142 be viewed as suspect since many homeowners had the assumption that their neighborhood board of directors had made this request of them. Several of the people in our neighborhood that had already sent in these letters dated August 23, are now sending letters of support for the marina.

I may be reached at 865-414-6060 should you wish to discuss this matter in more detail. Thank you for your time and attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Kevin Desmond". The signature is fluid and cursive, with a large loop at the end.

D. Kevin Desmond
Vice President

August 16, 2004

U. S. Army Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214-2660
Attention: J. Reuben Hernandez

RE: Existing Floating Docks and Proposed Commercial Marina Expansion at Mile 612.5, Right Bank, Tennessee River, in Knox County, Tennessee

Dear Mr. Hernandez,

The purpose of this letter is to express my support for the above-mentioned expansion by MEJ Properties LLC.

I and my family have owned property in Choto Inlet for many years. Back in the '60s, I owned a cabin cruiser berthed at Choto Marina. Along with my parents and husband, I have been a part of the growth of this cove for some 40-odd years.

The changes proposed above will bring a sleepy little boat dock into the 20th century, providing a modern, safe marina comparable to the newly renovated Concord Marina. Importantly, the new owner is going to have a family-oriented operation – one that encourages wholesome activity for boaters and restaurant patrons alike.

I'm familiar first-hand with the congestion in the past. Our personal slip is presently right in the middle of the cove, and it is very difficult to enter and exit it – especially on weekends. The relocation of the fuel dock and ship's store will decrease the traffic past it and provide easier, safer access for us, as well as boaters in general.

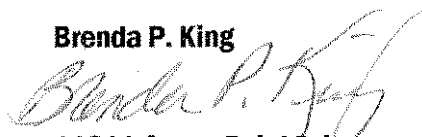
The restaurant planned by the applicant is to be a fine-dining establishment, situated in a pleasant, landscaped setting with a fantastic view. This is especially pleasing to me, since the property it is to be situated on was previously my property.

Although a few of the neighborhood residents oppose this expansion, it **WILL** relieve traffic in the cove and provide a safer, modern facility that will be a real asset to the community.

So I strongly urge you to approve the expansion as proposed by MEJ Properties LLC.

Sincerely,

Brenda P. King



11211 Crown Point Drive
Knoxville, Tennessee 37922

AUG 19 2004

VIP YACHTS

11211 CROWN POINT DRIVE • KNOXVILLE, TENNESSEE 37922

PHONE: (865) 675-2143 • FAX: (865) 675-2144

WWW.VIP-YACHTS.COM

August 17, 2004

U. S. Army Corps of Engineers
Regulatory Branch
3701 Bell Road
Nashville, Tennessee 37214-2660
Attention: J. Reuben Hernandez

AUG 19 2004

Dear Mr. Hernandez,

RE: Existing Floating Docks and Proposed Commercial Marina Expansion at Mile 612.5, Right Bank, Tennessee River, in Knox County, Tennessee

The purpose of this letter is to express my full support of the above-mentioned expansion.

I have been a boater for over 35 years and have enjoyed using Choto Marina for many years. In addition, I own VIP Yachts Inc. and have been selling boats berthed at Choto Marina for approximately 12 years. I have witnessed first-hand the growth of this facility.

Over the years, its expansion has happened seemingly without an overall plan; resulting in cramped areas and traffic congestion in the food service, fuel, and dry storage areas. The proposed plan will greatly reduce these problems by relocating a larger, state-of-the-art fuel dock and ships store out to near the mouth of the cove. The expanded dry storage will have plenty of additional parking conveniently adjacent to it. And a new fine dining restaurant will overlook the entrance of the cove, with adequate parking on land and transient docking for boating patrons, too.

The ingress and egress both by land and by water will be greatly improved. With an 80' wide entrance into the cove, it will control access to the entrance and provide a safer harbor for all. The narrow road on the west side has been expanded to 25' (awaits only resurfacing) to provide easy access to the new restaurant and the slips on that side of the cove. Already the main entrance road into the marina (on the east side) has been made double wide.

There has been a letter circulated to residents of the area by one of the adjacent neighbors. Unfortunately, it is filled with half-truths, innuendos, and just plain bunk! For example:

#1- I have spoken with area residents and they DO feel the proposed plan will be an improvement. They are NOT against it.

#2 - The proposed changes WILL NOT adversely effect the quality of life in the area. When completed this facility will be beautifully landscaped, have new blacktop access roads and parking areas, park-like resting and picnic areas, a modern fine-dining restaurant overlooking the river, more modern dockage facilities with updated electrical service, etc.

#3 - It will NOT pose a threat to the ecology. I was told by TVA that they have already conducted an ecological study and it did not find a threat to the ecology, water quality, or marine life.

#4 - It will NOT be an obstruction to navigation. On the contrary, a planned design for entrance to the cove will provide much-needed control of the water traffic into the cove, fuel facility, ships store, and transient slips. And its 80' width is plenty wide! After all, even the biggest boats entering the cove won't exceed 18' beam. And the expansion of the harbor limits allows plenty of safe distance from the main channel.

#5 - The statement that it will restrict access to the Amerson property is just plain false. Plenty of room has been allowed for this.

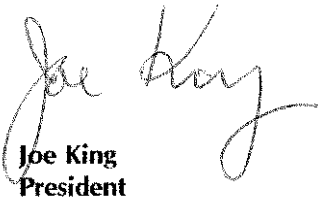
#6 - The effect of the public interest will not be negative. On the contrary, it will be very positive. A modern, safer harbor with state-of-the-art facilities will be a true asset to the community.

As far as I know, the applicant has gone through all the legal processes and received all the rezoning and variances necessary for this plan...yet a very few neighbors are trying to prevent this much needed expansion. He lacks only your permission.

I strongly urge you to approve this plan!

Sincerely,

VIP YACHTS INC.



**Joe King
President**

Union Cumberland Presbyterian Church

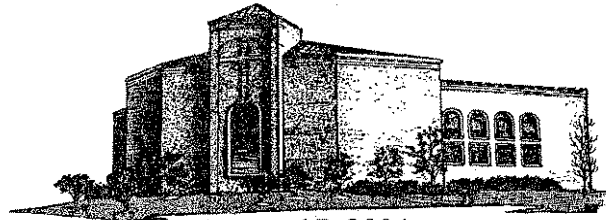
400 Everett Road

Knoxville, Tennessee 37922

**Leonard Turner
Senior Pastor**

Church: 1-865-966-9040

Fax: 1-865-675-3787



August 17, 2004

J. Reuben Hernandez, Project Manager
US Army Corps of Engineers
3701 Bell Rd.
Nashville, TN 37214-2660

Dear Mr. Hernandez,

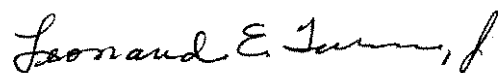
My name is Leonard E. Turner, senior pastor of the Union Cumberland Presbyterian Church located in Knoxville, Tennessee, and have been for the past 33 years. I am also the proud owner of a boat, which I store at Choto Marina and that is the reason for this letter.

When I first purchased my boat, the staff at Choto went above and beyond the call of duty to assist me in finding a suitable storage place. They have been more than cooperative, and I am really excited as a long-time member of this community to have such excellent ownership and management there. They are doing their best to make it a family oriented type marina. They are updating in many areas, including a new gas dock, a badly needed ship store on the water and a first-class restaurant. Plus they are getting additional slips and automobile parking. These men are always looking for ways to improve the community and help their customers.

I feel more like family than I one who merely pays their storage fee. I feel as if I can call on the management and staff at any time for any thing. They are great friends and business associates.

If you would like to talk with me personally regarding this matter, please feel free to contact me at the above number.

Sincerely,



Leonard E. Turner, Jr.

AUG 20 2004

August 16, 2004

Regulatory Branch

Attn: J. Ruben Hernandez
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

AUG 21 2004

TVA Little Tennessee Watershed Team

Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenoir City, TN 37771-6440

Re: Public Notice No. 04-48; Application No. 200401142

Dear Sirs:

My wife Judy and I are writing in response to US Army Corps of Engineers (USACE) and TVA Joint Public Notice No. 04-48 regarding the application by MEJ Properties, LLC, on behalf of Choto Marina on Fort Loudon Lake in Knox County, for (a) after-the-fact approval of existing floating docks (9 slips) temporarily placed in front of what is designated in the application as the Joe and Brenda King property (now owned by MEJ Properties, we believe), (b) the construction of additional floating docks (37 slips), (c) the construction of a "ships store" (an on-dock convenience store) and fuel dock, (d) construction of a floating pier ("gangway") in front of the Gerald Victory property, and (e) expansion of currently approved harbor limits for the marina. We have a residence on property just downstream from the King property (separated from it by a narrow strip of land—approx. 34 feet wide—owned by Vernon B. Ramsey). The mailing and county tax-record address for our property is 2800 Summershade Lane, Knoxville, TN 37922. Our residence is approximately 120-140 feet from the southwest corner of the proposed location for the fuel dock and ships store. We have a view from our front windows and screened porch of much of the outer end of the Choto Marina cove when the leaves are off the trees; we have a filtered view during the summer months.

Having owned and used our residence at 2800 Summershade Lane since 1974 (my parents owned it before us, from 1962-1974), and making plans to retire to the Knoxville area in the next few years, my wife and I are deeply concerned about and strongly opposed to the proposed marina expansion. We believe that this expansion violates both the spirit and the letter of several existing regulations and guidelines, that it will adversely affect the quality of

life not only for us but also for other residents of the cove and of the surrounding area, that it poses serious threats to the ecology of the area, that it will be an obstruction to navigation, and that it raises important safety concerns. Let us try to briefly summarize the basis for these broad statements by, first, addressing what we understand to be the three key elements of the application and then considering the effect of the proposed expansion on the public interest.

1. Extension of Harbor Limits

It is our understanding that criteria for setting harbor limits include, among other factors, ownership or long-term lease rights to the shoreline, sufficient distance from the navigation channel of the Tennessee River, and no obstruction of navigation rights of other parties. The TVA drawing of March 3, 2004, of the Choto Marina harbor limits recognizes one small area on the south side and one on the west end of the cove where the harbor limits are restricted because of private ownership or easement rights to the shoreline. In addition, on this drawing there is free navigation access to the shoreline of private properties on the north side of the cove. However, as drawn in Exhibit B of the application, the proposed new harbor limits do not include the restricted areas on the south side and west end, nor is there free navigation access to the shoreline of Amerson property on the north shore. Moreover, the planned fuel dock extends so far out from the south shoreline that all ingress and egress from the marina facilities is on flowage over the Engleman property.

A proposal for extension of the harbor limits less extreme than the present one was considered and denied by TVA on March 8, 2004. Since that time, the marina has, we believe, acquired ownership of or long-term lease rights to the King property. If so, this would provide some basis for extension of the harbor limits along the south shoreline to the east end of the King property—as long as this extension is sufficiently distant from the navigation channel of the Tennessee River. (It is our understanding that such determination is made by USACE.) However, acquisition of the King property would seem to provide no basis for extension of the harbor limit to within 40 feet of the opposite (north) shoreline at summer pool (less in the winter) along the Conner property or to within about 80 feet of the shoreline along the Engleman property. Such an extension, coupled with (a) the placement of docks (“D” and “E” docks) in this extension area and (b) the floating pier along the shoreline of the Victory property would, with boats moored to the docks and piers, make navigation to and from the Amerson property extremely difficult and hazardous, if not impossible, especially at winter pool. Such an extension would also, de facto, deprive Conner and Engleman of the right to extend a dock into the cove from their shoreline should they wish to do so.

2. Placement of Fuel Dock and Ships Store

Allowing for sufficient distance from the shoreline to float the proposed fuel dock with ships store and for the approximately 114 feet long projection into the cove, this structure will cover well over half the distance across the cove at summer pool; a navigation channel of only about 80 feet will remain. The fuel dock will cover an even larger percentage of the distance across the cove at winter pool. This proposal would seem to be at variance not

only with the TVA "one-third rule" that docks shall not extend more than one-third the distance to the opposite shoreline (a rule that we understand is a regulation for private residences but only a rule-of-thumb for commercial marinas, according to local interpretation) as well as with Knox County Supplementary Regulations (Section 4), Standards for Marina and Boat Livery Development (Subsection 4.30) of Article 4 of the Knox County Zoning Ordinances. Paragraph 4.30.04 (E) states: "When the proposed marina or boat livery development is situated in a cove or embayment which is less than three hundred feet in width (at normal pool as defined by the Tennessee Valley Authority), the applicant must own or control the shoreline opposite such development inland at least 100 feet from the shoreline." Clearly, at the proposed location the fuel dock and ships store would violate this regulation with regard to the Conner and Engleman properties. Through his architect Len Johnson, Mitchell Jones (current owner of Choto Marina) applied for and received approval of a variance of this regulation from the Knox County Board of Zoning and Appeals (BZA) on May 3, 2004. However, the granting of this variance by the BZA has been contested in a Complaint/Petition filed with the Chancery Court for Knox County, including Conner and Engleman as petitioners. This suit is awaiting hearing. Given the narrowness of the Choto Marina cove and given that the marina does not have ownership or land use rights to the shoreline opposite the King property, we believe that the one-third rule should be applied.

Second, were the fuel dock and ships store placed as proposed, all boat traffic into and out of the cove—both marina boats and those of cove residents—would need to go through the relatively narrow bottleneck created by this large obstruction at the mouth of the cove. The result would be an awkward and potentially dangerous situation, especially on summer weekend afternoons when dozens of boats go in and out of the marina, many of them quite large. These boats, as well as all boats entering and leaving the narrow opening of the fuel dock, would meet in the flowage easement over the Engleman property. Assuming that boats do not wish to get closer than 20 feet to the shore (lest they run aground) and that each boat requires 20-40 feet of space (including clearance) depending on size and skill of the operator, at most 2-3 boats can be in the passage at once. We have seen boats waiting their turn to get in and out of the marina cove with its current, relatively open configuration. With the proposed size and placement of the fuel dock and ships store, there will be major traffic jams—and frustrated, angry boaters. Coupled with the sale of beer at the ships store, this is an explosive situation. (According to the TVA website, Red Cross records indicate that alcohol is involved in two-thirds of all recreational boating accidents nationwide.)

Third, the location of a fuel dock at the outer end of the cove, where wave action is high on summer weekend afternoons—the same time that most fuel will be pumped—greatly increases the likelihood of fuel spills. Spilled gasoline is a source of water pollution; spilled diesel fuel is an even more serious source of water pollution because it does not evaporate. There is also a safety issue. When fueling boats, the major safety risk arises after fuel leaves the nozzle—spillage and fires. About 5 years ago a boat refueling at Choto Marina caught fire and burned. Since then, the present fueling station at the marina has become tightly confined and congested due to the addition of many more boat slips in that part of the cove. Inside the perimeter of the proposed fuel dock, however, space will be even more confined and congested, which will greatly increase the risk of a fueling fire spreading to other boats,

to buildings, and to trees onshore. Moreover, it will not be possible for fire trucks to get close to the proposed site. The closest access appears to be over 200 feet away at the end of a long parking lot.

Fourth, at the proposed location, the fuel dock with ships store will be within about 140 feet of our house and less than 100 feet from the shoreline of the Conner and Engleman properties. Knox County Supplementary Regulations (Section 4), Standards for Marina and Boat Livery Development, Paragraph 4.30.03 (E) states: "All docks, fuel and supply facilities, launching and lift facilities, boat sales and servicing areas, restaurants and hotels, motels, or boatels related to a marina must be at least three hundred feet from any residence except that of the owner or operator." Further, Paragraph 4.30.04 (C) states: "The applicant must own or control the land area within two hundred feet of all docks or other floating structures." Clearly, the proposed location is at variance with each of these regulations. Mr. Jones received approval of a variance of these regulations from the BZA on May 3, 2004, giving him permission to place the fuel dock as close as 120 feet from our house. He also received approval for reduced distances from the Amerson and Conner land and residences. Once again, however, the granting of these variances by the BZA has been contested in the previously mentioned Complaint/Petition filed with the Chancery Court for Knox County.

3. Addition of 37 (or More) New Boat Slips

The proposed addition of 37 new boat slips raises two issues. First, the Knox County Metropolitan Planning Commission (MPC) recommended approval, and the BZA granted approval, for Mr. Jones to add a specific number of additional boat slips. It is our understanding that the current proposal includes many more new slips than the number approved by the BZA. Therefore, we believe that the current proposal falls outside the existing approval and that it is necessary for Mr. Jones to go back to the MPC with this new proposal in order to secure needed approval from Knox County. In reviewing the previous proposal, the MPC staff noted that the marina needed sufficient parking space to accommodate users of boat slips. Parking was barely adequate, if that, at the time. Even more slips create the need for more parking. More parking means the destruction of more trees and foliage, creating more runoff, erosion, and water pollution.

Second, the proposed placement of the "D" and "E" docks, as already noted, will obstruct easy ingress and egress from the Amerson property. These docks will also virtually eliminate any aesthetically pleasing view from either the Amerson or the Conner property. This is especially true given the height of the roofs on these docks (15 of which are listed as 20 feet high). At its May 13 meeting, the MPC voted to deny the placement of marina boat slips in front of the Victory property and to deny location of the fuel dock and ships store in front of the King property. (These decisions were appealed and were reversed by the BZA on May 26. Once again, however, this BZA action has been contested in a Complaint/Petition filed with the Chancery Court for Knox County, which is awaiting hearing.) In the words of one member of the MPC at the meeting on May 13, "they [the marina owner and associates] are taking away the view, which is what the residents bought their property for. I have a hard time feeling it is a good idea to expand since it [Choto Marina] is a preexisting

nonconforming use to begin with. They are taking away what the individuals bought their property for." It seems clear that the proposed placement of the "D" and "E" docks will have an extremely negative impact on the quality of life of these cove residents.

Effect of the Proposed Expansion on the Public Interest

The effects of the proposed expansion on the public interest can be considered by looking at three different populations: (a) residents with property in or adjoining Choto Marina cove, (b) residents of the Choto Bend peninsula, and (c) citizens of the area who use the lake.

(a) The effects on residents of the immediate area are of three major types:

- (1) Obstruction of access to and from the main channel from one's property. This effect is most apparent with regard to the Amerson property, but it also pertains to private shoreline farther back in the cove—i.e., the shoreline used by residents Chip Howard and Gary Grimac.
- (2) Pollution. We have already mentioned that the proposed fuel dock and ships store will be a source of water pollution and trash. They will also be a source of additional noise, gasoline smells, and intrusive lighting, all of which will have a negative impact on the Amerson property and on the Conner and Batson properties in particular. We will, in effect, be living next to a gasoline station and convenience store, which is not what we anticipated when we built our docks, patios, decks, and screened porches in an agricultural/rural-residential area.
- (3) Obstruction of view. As mentioned above, this effect is most apparent regarding the Amerson and Conner properties but is also true to a lesser degree for our property and the Engleman property.

(b) Effects on residents of the Choto Bend peninsula are of four major types.

First, residents have expressed opposition to the destruction of the natural environment that has already taken place as part of the marina expansion to create additional parking spaces and boat storage—destruction that had no benefit except economic gain. Trees and vegetation were cleared, increasing erosion and silt run-off into the lake, and replaced with unattractive buildings, red clay banks, and gravel drives. If more boat storage and tall covered slips are packed into the already crowded marina cove and on adjacent hillsides, the result will be even more aesthetically unpleasing and environmentally damaging.

A second concern for area residents is traffic. We who drive Choto Road on a daily basis know it to be crowded and dangerous, especially at night and on weekends. From Choto Marina to Northshore Drive, a distance of 2.5 miles, we must navigate along a narrow, two-lane asphalt road with 7 unsighted curves and 4 unsighted hills (one with a crossroad). Additional boat storage and slips at the marina will mean increased numbers of people using

Choto Road who are not familiar with its unpredictable terrain. Mr. Jones has stated that he plans to bring a boat sales operation to the marina (and may have already done so), which means that Choto Bend residents will have to contend with large boats being hauled to and from the marina over this narrow, crowded, and dangerous road.

Third, there is concern that the marina will allow some of the new (or old) slips to be used for live-on houseboats. Such use is increasingly common at marinas. It is feared that houseboat residents would be a source of pollution (sewage and trash) and that they would add a transient population to a stable residential area. Insofar as we know, the marina owner has provided no written assurance that live-ons will be prohibited, and we know of no way to restrict such use should he decide to allow it once the slips are in place.

Fourth, many Choto Bend homeowners are worried about the encroaching commercialism that the marina expansion represents. We prize the rural residential character of the area in which we live and don't want to see it destroyed. It is not always convenient living in the country with only one narrow road to get us into and out of our property, but we do so for a reason—the beauty of the natural environment and the chance to distance ourselves from the noise, traffic, ugliness, and congestion of urban life. Natural beauty and quiet solitude are valuable national resources but, regrettably, increasingly rare commodities in Knox County. They are easily lost, and once lost, they are virtually impossible to regain. These commodities still exist in the Choto Bend area, but they are under attack. In such an area, it seems especially important that development be carefully planned, regulated, and controlled so that the natural beauty and solitude are conserved. The proposed marina development promises to bring to our doorstep the very things that we moved to the country to escape.

Although Mr. Jones has claimed that he has broad-based support of neighborhood association and other Choto Bend residents for his proposed marina development, we have not found this to be true. After speaking personally with the presidents of the four subdivisions closest to the marina—Lakeshore Meadows, Channel Point, Choto Estates, and Rivendell—we learned that none of them looked with favor on the marina expansion. We also talked to other homeowners in the area and discovered that many felt the same as the presidents. We circulated a petition giving area residents the chance to express opposition to the marina development prior to the BZA meeting on May 26, 2004, and although we did not have time to reach all of our neighbors, we were able to reach 51. Thirty-eight signed the petition stating, "As a neighborhood resident, I oppose the development of Choto Marina proposed by Mitchell E. Jones." Eight more expressed opposition but for various reasons declined to sign. The remaining five expressed partial opposition (2), desire for more information (2), or no opinion (1). Not one person expressed support for the development being planned at the marina. It seems clear that an overwhelming majority of these area residents oppose the proposed marina development. Increased traffic and the threat to the rural character of the area were the two most frequently mentioned concerns. A copy of the petition with signatures is enclosed.

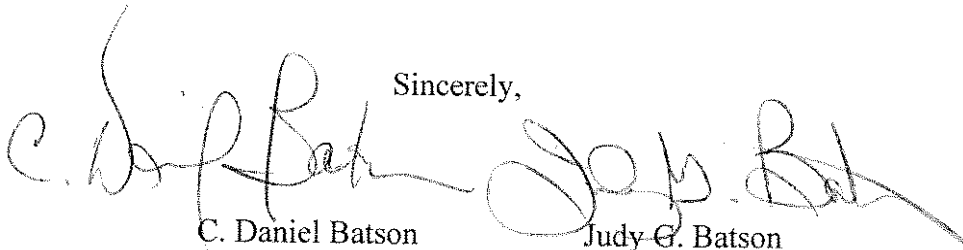
(c) Effects on citizens of the area using the lake are, at best, mixed.

No doubt, having another place to store a boat, to refuel, and to get groceries and supplies will benefit some citizens of the area. At the same time, there will be liabilities. As mentioned earlier, the proposed placement of an enclosed fuel dock at the mouth of the cove, with congestion and rough water due to wave action, will create hazards for people wishing to buy fuel and supplies there. Further, the lower end of the Choto Marina cove is reputed to be one of the best bass fishing sites on all of Fort Loudon Lake. Even if the proposed development does not drive the bass from this site, the area will be rendered inaccessible for fishing by the development.

Finally, one must ask whether proposed expansion of Choto Marina is in the public interest. Choto is one of five marinas in lower Fort Loudon Lake, along with Concord, Fort Loudon, Fox Road, and International Harbor. Each of the other marinas is in a protected embayment well off the main channel of the Tennessee River. Choto is at once the most exposed to wave action and also the geographically most restricted. The Choto Marina cove is small and very narrow. At the other marinas, expansion could be accomplished far more safely and with far less negative impact both on the environment and on the welfare and values of area residents. Our impression is that the proposed Choto Marina development is an overly ambitious attempt to stretch the boundaries of the existing site to fit financial goals, not to assess the true nature of the site and its constraints and work within their scale and potential. Trying to expand his limited space, Mr. Jones has frequently been required to seek exemptions, variances, and waivers to existing county codes, which sets a dangerous precedent. The current application moves this precedent in new directions. Just because Mr. Jones wants more room is not a good enough reason to overturn the regulations of various governing bodies and agencies. Nor is it a reason to infringe on the rights of residents of the area or to compromise the public interest.

Thank you very much for notifying us of the proposed expansion of the marina and for giving us the chance to express our concerns. If any are unclear, or if you would like additional detail, please let us know. For the reasons stated, we would ask that you deny this application unless it is substantially modified to effectively address these concerns.

Sincerely,

The block contains two handwritten signatures. The signature on the left is for C. Daniel Batson, and the signature on the right is for Judy G. Batson. Both signatures are in cursive and appear to be written in ink.

C. Daniel Batson

Judy G. Batson

2800 Summershade Lane
Knoxville, TN 37922
(865)966-6530 or
(785)842-8638

Petition

As a neighboring resident, I oppose the development of Choto Marina proposed by Mitchell E. Jones.

<u>Signature</u>	<u>Name</u>	<u>Address</u>
<u>C. Daniel Batson</u>	<u>C. DANIEL BATSON</u>	<u>2800 SUMMERSHADE LN.</u>
<u>Judy G. Batson</u>	<u>Judy G. Batson</u>	<u>2800 Summershade Lane</u>
<u>Ann Roberts</u>	<u>ANN ROBERTS</u>	<u>12325 RIVER OAKS POINT</u>
<u>Tom Roberts</u>	<u>TOM ROBERTS</u>	<u>12325 RIVER OAKS POINT</u>
<u>Rhonda MacIntyre</u>	<u>Rhonda MacIntyre</u>	<u>2810 Summershade Ln.</u>
<u>Jerralyn A Tibbs</u>	<u>Jerralyn A Tibbs</u>	<u>2916 Summer Shade Lane</u>
<u>George Tibbs</u>	<u>George Tibbs</u>	<u>2916 Summer Shade Lane</u>
<u>Margaret Jones</u>	<u>MARGARET JONES</u>	<u>2919 SUMMER SHADE</u>
<u>CARROLL JONES</u>	<u>CARROLL JONES</u>	<u>2919 SUMMER SHADE</u>
<u>Martorie Beachler</u>	<u>MARTORIE BEACHLER</u>	<u>3006 WHISPERING COVE</u>
<u>Chip Beachler</u>	<u>CHIP BEACHLER</u>	<u>3006 WHISPERING COVE</u>

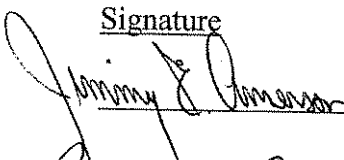
Petition


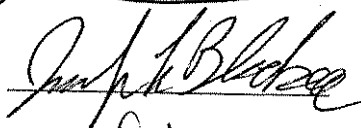
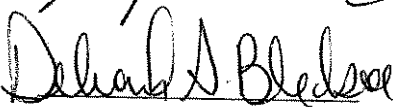

As a neighboring resident, I oppose the development of Choto Marina proposed by Mitchell E. Jones.

<u>Signature</u>	<u>Name</u>	<u>Address</u>
<u>Sharon Giese</u>	<u>SHARON GIESE</u>	<u>3005 WHISPERING COVE</u>
<u>John Giese</u>	<u>JOHN GIESE</u>	<u>" " "</u>
<u>Gary Grinac</u>	<u>GARY GRINAC</u>	<u>2527 Choto Rd.</u>
<u>Janice Hall</u>	<u>JANICE HALL</u>	<u>1819 Choto Rd.</u>
<u>Ralph Hall</u>	<u>Ralph Hall</u>	<u>1819 Choto Rd.</u>
<u>P. Jane Cox Clark</u>	<u>P. Jane Cox Clark</u>	<u>2834 Summershade Ln</u>
<u>Charles N. Clark</u>	<u>CHARLES N. CLARK</u>	<u>2834 Summershade Ln.</u>
<u>Lillian R. Rayson</u>	<u>LILLIAN R RAYSON</u>	<u>2848 SUMMER SHADE LANE</u>
<u>Edwin H. Rayson</u>	<u>Edwin H Rayson</u>	<u>2848 SummerShade Ln</u>
<u>Lawrence P. MacIntyre</u>	<u>Lawrence P. MacIntyre</u>	<u>2810 Summershade Ln</u>

Petition

As a neighboring resident, I oppose the development of Choto Marina proposed by Mitchell E. Jones.

<u>Signature</u>	<u>Name</u>	<u>Address</u>
	Jimmy E. Amerson	12200 Choto Marina Way
Betty C. Amerson	Betty C. Amerson	12200 Choto Marina Way
I support Jim Amerson's right to defend his property, home and property value against any and all occurrences. Wayne Puckett		

	Jim Bledsoe	12112 Choto Marina Way
	Jennifer Bledsoe	12112 Choto Marina Way
	DEBORAH Bledsoe	12118 Choto Marina Way
	Dale D. Bledsoe	12118 Choto Marina Way

_____	_____	_____
_____	_____	_____
_____	_____	_____

Petition

As a neighboring resident, I oppose the development of Choto Marina proposed by Mitchell E. Jones.

<u>Signature</u>	<u>Name</u>	<u>Address</u>
<u>Randy W. Wolfe</u>	<u>Randy Wolfe</u>	<u>President Choto Estates Homeowners</u>
<u>Jaye Wolfe</u>	<u>Jaye Wolfe</u>	<u>12213 Warrior Trail</u>
<u>Michael J. Rini</u>	<u>Michael J. Rini</u>	<u>12113 WARRIOR TRAIL</u>
<u>Greg Whitley</u>	<u>Greg Whitley</u>	<u>12120 Warrior Tr.</u>
<u>David Shupp</u>	<u>David Shupp</u>	<u>12168 Warrior Tr.</u>
<u>Teresa Shupp</u>	<u>TERESA SHUPP</u>	<u>12168 Warrior Trail</u>
<u>Robert Baird</u>	<u>Bob Baird</u>	<u>12116 Warrior Tr</u>
<u>Jean Baird</u>	<u>Jean Baird</u>	<u>12116 Warrior Tr</u>
<u>Kenneth W. Thornton</u>	<u>Kenneth W. Thornton</u>	<u>12104 WARRIOR TRAIL</u>
<u>Deborah Meyers Thornton</u>	<u>Deborah Meyers Thornton</u>	<u>12104 Warrior Trail</u>
_____	_____	_____

August 17, 2004

Regulatory Branch
Attn: J. Ruben Hernandez
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

AUG 23 2004

TVA Little Tennessee Watershed Team
Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenoir City, TN 3771-6440

Reference: Public Notice No. 04-48; Application No.200401142

Dear Mr. Hernandez:

This is in response to the above joint public notice of the USA Corps of Engineers and TVA concerning harbor limits expansion, moving existing docks, relocation of illegal docks (which have been violating existing harbor limits for over a year) and the building of new docks for Choto Marinas (MEJ Properties) proposed expansion.

As property owners adjacent to the marina we seem to be the most affected of all the home owners on Choto Mariner Way in regards to being boxed in with very limited, if any, access to the river depending on boat moorings, boat traffic and lake levels if this dock expansion is allowed. Our view of the river would not just be limited, but would be nonexistent. These two concerns alone are enough to considerably devalue the current property value and would probably make it un-sellable except to the marina, which has offered what we consider to be less than half current value.

Our property is by no means the only affected property inside the cove. The Connor, Engleman and Batson residents will all suffer varying degrees of visual, traffic and other areas of pollution.

I am very surprised you have posted this notice at this time in light of the marinas actions the past year in totally disregarding Knox county codes and standards for marina development, no TVA or Corps approved permits and a continued violation to control soil run off into the cove as requested by TVA. This pollution has been going on for several months as a result of tree cuttings and earth moving on the west bank. Also, the fact that Knox County still has a law suit against the marina on the docket, as well as a complaint/petition suite filed by Us (Amersons), Connor, Englemans and Batsons to appeal the BZA ruling granting code variances (which had previously been turned down 4 times by the BZA and MPC) to disregard the required 300 ft. distant from a private resident to a commercial dock. The expansion plan drawing you have included with this notice are NOT the same expansion plan drawing or number of boat slips involved that

the BZA or MPC planning staff had when they voted to allow the variances from the county codes. Knowing that you require an applicant to have met all other code requirements before you or TVA will consider an application could make one believe they are at least on very shaky ground.

Your decision to issue a permit or not for this expansion seems to hinge on the same things we feel are the very reasons to NOT approve this request. In addition to the problems that additional boat slips (moorings) will create regarding addition boat traffic, Mr. Jones (Choto Marina Owner) has moved all the retail (new and used) boat sales to the marina resulting in traffic jams of cars, trucks, and trailers, at times blocking access to Choto road by the six families that have right of way through the marina. Potential accidents are and will be higher both on land and water (marina cove) if this expansion is allowed.

Anywhere you have boats, especially in the hundreds in such a small area, you will have gas, oil, noise and trash pollution to deal with. We feel this expansion would be the straw that breaks the camels back in relation to pollutions issues.

It is not just the homeowners in and close around the marina that have great concerns. The majority of homeowners down the 3-mile stretch of Choto Rd. from North Shore Dr. to the road end have voiced great concerns about additional car, boat, truck/trailer traffic. Residents along the river express concerns about additional noise pollution, additional boat traffic and additional water pollution. These concerns are addressed in more detail in Mr. and Mrs. Batsons response to you.

As there is no law against on board living, we all share a major concern regarding this issue. Mr. Jones has told me he was bringing in a big yacht to live on. If this trend were to develop it would be terrible for all who use and love the water and the natural environment of this area.

Is this marina expansion in the public interest, we think not. This expansion is sought purely for monetary gain. Gas docks and ship stores already exist and they are accessible by emergency vehicles where as the proposed expansion for these facilities are not.

Mr. Jones knew what he was getting when he bought the marina last year. He knew the size of the cove was restrictive to this type expansion. He knew all the property on the east bank was privately owned with three full time private residents. He managed to get a short term lease (5 years) for water front use from the only piece of property with no private resident, then proceeded to bring in a 178 ft covered boat dock (w/9 slips) with no county approval, no TVA or Corps written approval. I was told by Mr. Jones that this dock was for his new boat sales, and no, he would not like it if this dock was put in front of his property on Norris lake, but this was business and he wasn't going to move it.


He has moved this dock across the cove, but moved the two, hundred ft. plus docks that was there in front of my property where he has used boats moored, still with no expanded harbor limits, and no permits. We have been living with this issue for over a year. We

had looked to TVA and the Corps of Engineering to enforce the counties firm stance to remove the 178 ft. dock from Nov. 2003, until May 2004.

Sadly, on May 3, 2004 the BZA reversed itself and Mr. Jones and his legal team began to visit you, TVA and the county people pushing for one plan, then another plan and yet another plan with total disregard for his neighbors rights, the environment or the concerns of the area residents.

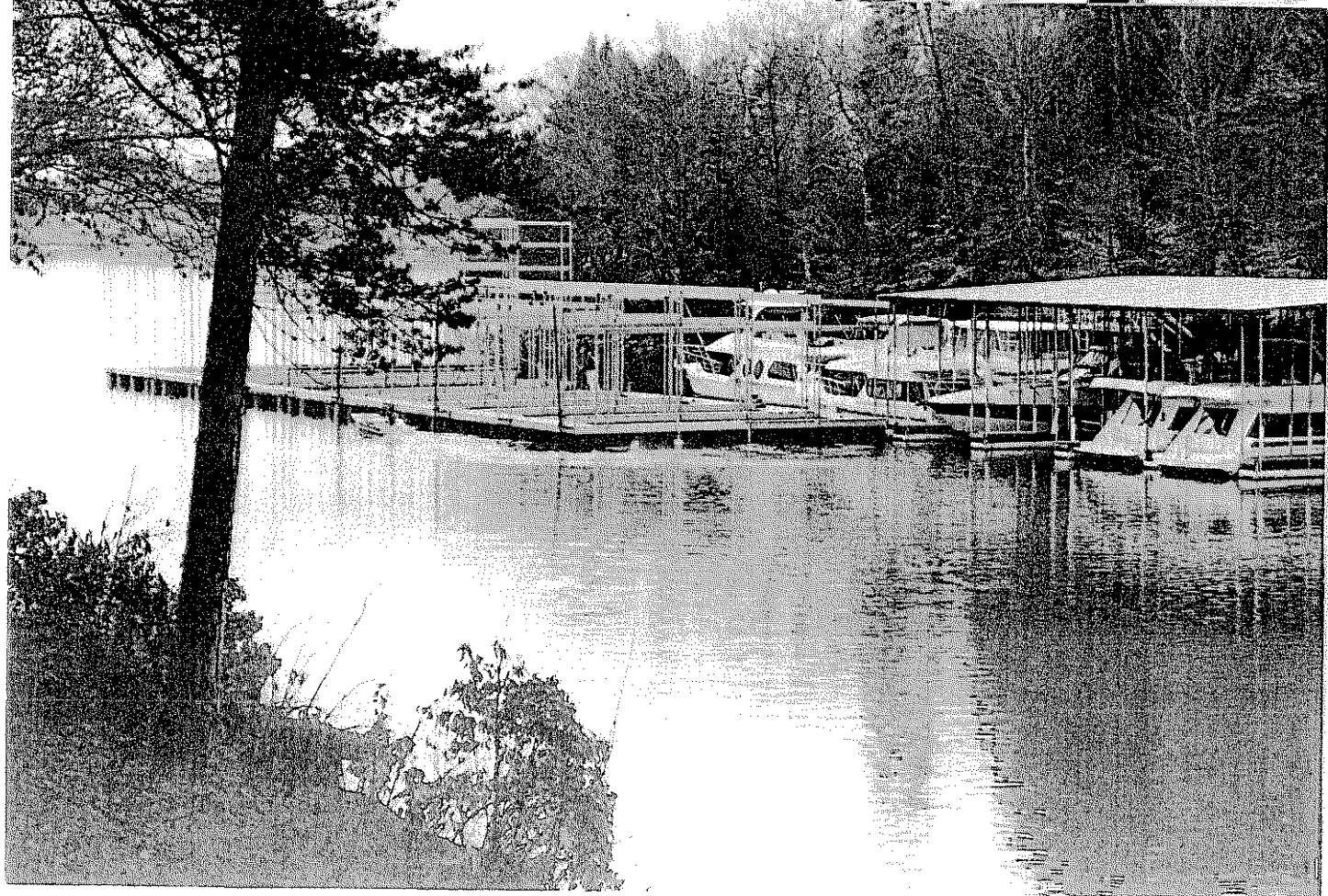
Thank you for allowing us to comment on this issue. We feel the Corps is above local politics and you will give our many concerns due consideration. Please advise if we can be of further assistance. We ask that you deny this application. We also ask that you not approve any harbor limits expansion. We feel this would result in an endless, on going effort by Mr. Jones to circumvent the spirit and intent of those regulations that have been put in place to protect the private property owners who do not have unlimited funds to keep defending them selves as we have been forced to do for over a year now.

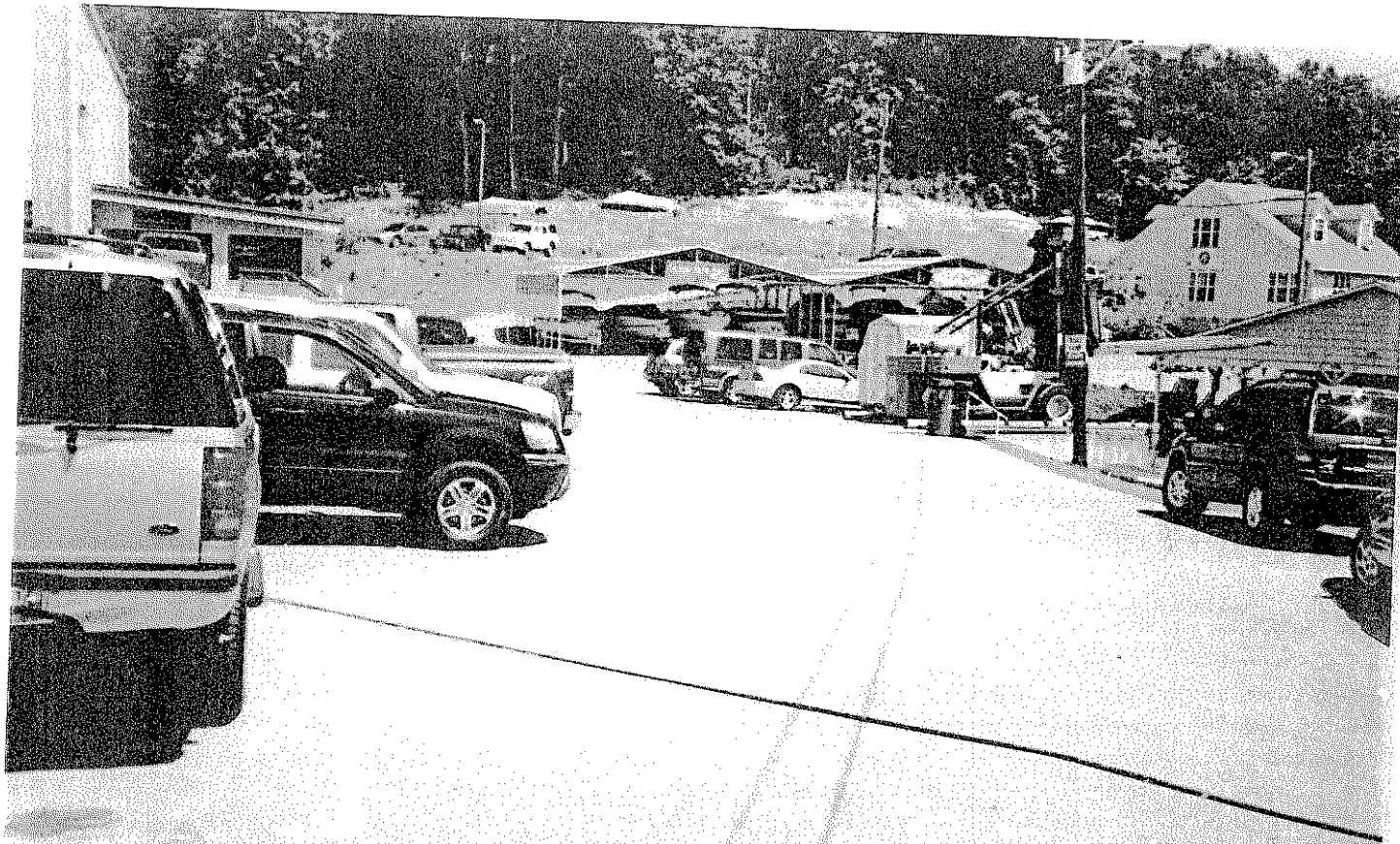
Sincerely,

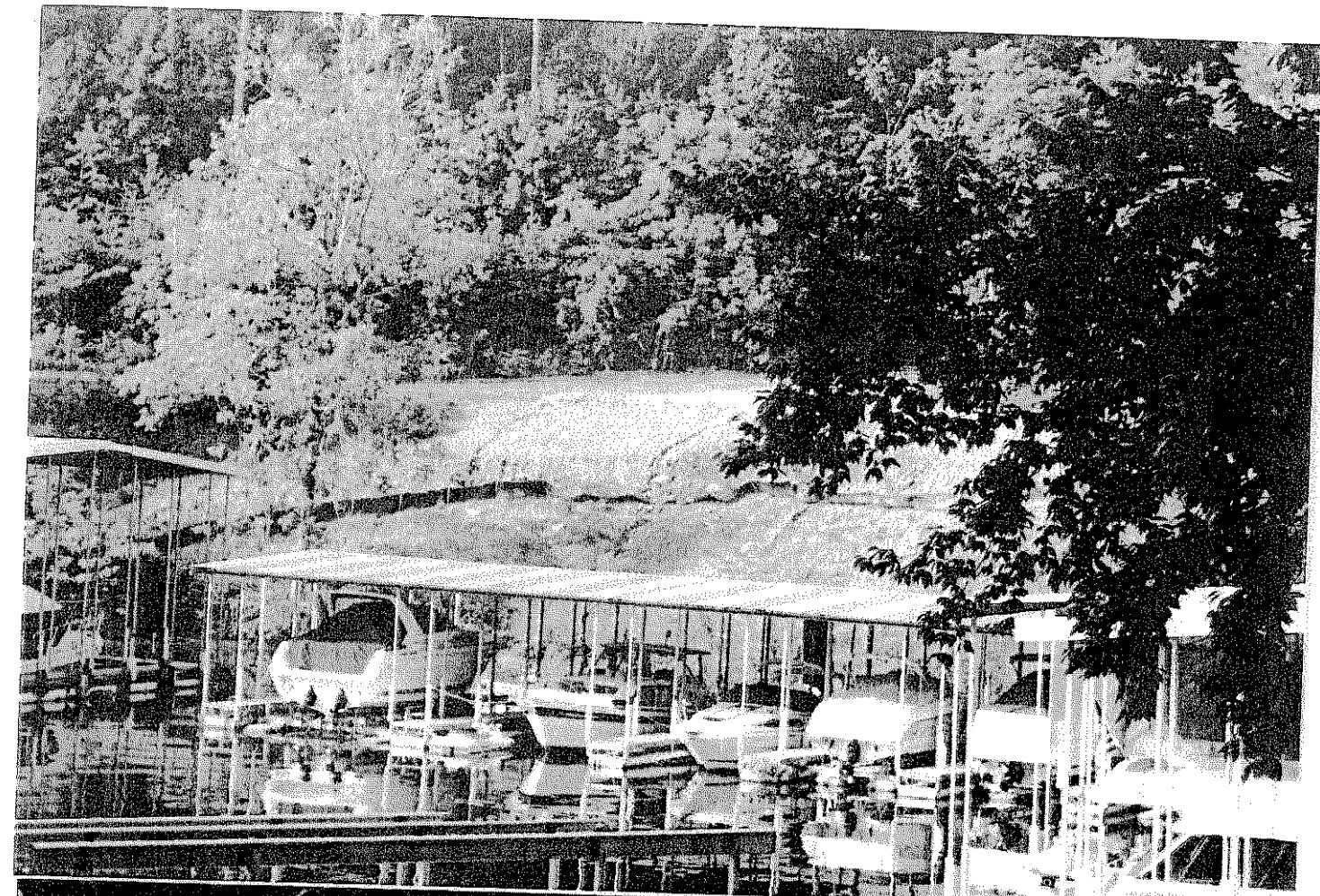

Jimmy E. Amerson
12200 Choto Marina Way
Knoxville, TN 37922
Ph. 865-966-5382


Betty C. Amerson

Inc. Photo 1, docks (2) not in harbor limits
2, congested traffic
3, boat storage in limited auto parking spaces
soil run off into cove







August 25, 2004

Mr. J. Ruben Hernandez
U.S. Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214

Mr. Gary Pettway
Tennessee Valley Authority
804 Highway 321 North
Lenoir City, TN 37771

**Re: Public Notice No. 04-48: Application No. 200401142
Choto Marina Expansion**

Dear Sirs:

I am writing in regard to the above-captioned notice wherein Mr. Mitch Jones (MEJ Properties) sent very misleading letters to all Choto Marina customers. My family will be moving to Choto Road in November and wish to have our voice heard. To quote Mr. Jones, "the needs of a few outweigh the needs of the many," he is most definitely referring to my in-laws whose only needs are to enjoy their retirement home as intended when they purchased their lake home. They were well aware and content to know that Choto Marina co-existed alongside their home. I am sure they never imagined they would have to lose their view or water frontage because of a new buyer of said Marina. Their three children, many grandchildren, and great-grandchildren also enjoy what they have been enjoying in these past years.

Why should a corporation be allowed to push its weight around for its OWN "needs?" Many of our friends have chosen not to purchase gas, goods, or food from Choto Marina under its new management simply because he is so inconsiderate to local residents.

When Mr. Jones refers to "your expansion plans" he truly is referring to his own desire of expansion plans. His corporation should not be allowed to encroach on local residents' land and water acreage.

Please refer to all documents that have been filed with the Metropolitan Planning Commission, TVA, etc. when considering these changes. Mr. Jones has been very dishonest to these local residents when attempting to expand Choto Marina. Also, these residents should not have to spend their time in court, etc. just to keep what rightly belongs to them.

Thank you for your consideration.

Sincerely,

Rena Amerson

Rena Amerson
10824 Sonja Drive
Knoxville, TN 37922
865-966-7258

August 23, 2004

Regulatory Branch
Attn: J. Ruben Hernandez
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

AUG 26 2004

TVA Little Tennessee Watershed Team
Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenior City, TN 3771-6440

Reference: Public Notice No. 04-48: Application No.200401142 (Choto Marina Expansion)

Dear Mr. Hernandez:


In my letter to you dated August 17, 2004, I referenced many home owners in this area and down Choto Road are against the Marinas dock expansion. These opinions have been expressed both oral, written and by the signing of a petition which a copy was sent to you with Mr. and Mrs. Batsons letter dated August 12, 2004.

We know this purposed expansion does not have the support of the community as claimed by Mr. Jones and we would request a public hearing to support our claim to overwhelming opposition to this expansion. We feel it is impossible to get a true feel for the ground swell against the marina, both for this expansion and the existing traffic conditions created by the current dock/slips operation coupled with the new and used boat sales traffic.

A few letters by the most affected by this expansion doesn't express the communities concerns regarding the expanded pollution problems. We feel a public hearing will convey that message to you and enable the Corps to reach a more informed decision if this dock expansion is or is not in the best interest of the public.

Thank you for your consideration for a public hearing regarding this expansion application.

Sincerely,


Jimmy E. Amerson
12200 Choto Marina Way
Knoxville, TN 37922
Ph.865-966-5382


Betty C. Amerson

August 24, 2004

AUG 26 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

Tennessee Valley Authority
Gary Pettway
804 Hwy 321 North
Lenoir City, TN 37771

Reference: Public Notice No 04-48:Application No.200401142 (Choto Marina
Expansion)

Dear Mr. Hernandez:

I have just come in possession of the two letters that Choto Marina has sent to all the Marina Customers along with a self addressed stamped envelope. The purpose of my response to you regarding the marinas letter is to let you know that the two neighbors (we assume are the Amersons and Terry Connor) do NOT prefer that the marina not exist. We find this to be very mis-leading and an untruth. Both of our houses date back to the 1960's or before. We bought our property knowing the marina was here and have co-existed with it and even had our boats in storage there at various times and had good relations with the other owners and Mr. Jones until he started telling untruths and taking it upon himself to expand with total disregard to his neighbors, their rights, county code requirements, harbor limit restrictions, etc.

It appears that Mr. Jones is using a scare tactic to generate responses to you so the marina will not be shut down by a couple of neighbors as they are being told.

A point I hope you will consider in receiving signed copies of this general blanket letter, is how many of these boat owners live in this general area and will feel the impact of the various concerns we have voiced to you in pervious letters.

The only improvement to the facility they have seen is a widening of the entrance road, which is used as added parking spaces as there isn't enough parking available for the weekend traffic. Its interesting to note that Mr. Jones has billed Mr. Connors and my-self for over \$15,000.00 each for our proportion of right a way improvements and not the other four property owners that have right a way over Marina property to Choto Road.

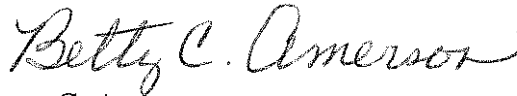
Their statement that they have successfully worked through many issues with Knox County could be challenged as the county still has a law suit on the docket against them, and there are two additional suits in the courts waiting for trail dates.

Again, thank you for your time and consideration in this issue. We ask that you deny this application for dock expansion in its current form.

Sincerely,



Jimmy E. Amerson
12200 Choto Marina Way
Knoxville, TN 37922
Ph. 865-966-5382



Betty C. Amerson

Inc. To all marina customers ltr
Dear Gentlemen ltr

To all Marina Customers:

We need your help. We have talked to many of you about the future plans for your marina facility. We are now in the final stages of approvals & have successfully worked through many issues with Knox County.

Now comes the TVA and Army Corp of Engineers. We have a couple of neighbors that would prefer this marina not to exist. This Marina pre-dates most all development in this area and has been a fixture for all of you to enjoy since 1952. To have **"the needs of a few outweigh the needs of the many"** makes me work even harder for the MANY!

By signing this letter & mailing it to the Army Corp of Engineers, you will be assisting us in completing the permit process for your expansion plans.

Please take a moment to sign this letter & mail it in the pre-addressed stamped envelope enclosed. This must be to the ACE by August 26, 2004.

You can view the public notice by visiting the ACE website @:

<http://www.lrn.usace.army.mil/cof/>

Look for public notices on the first page & proposed activities on the second page & locate 04-48.

Thank all of you for your help!!!!

17 August 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

Tennessee Valley Authority
Gary Pettway
804 Hwy 321 North
Lenoir City, TN 37771

Dear Gentlemen,

This is in response to the proposed development & expansion of Choto Marina located in Knoxville Tennessee.

The marina is currently being renovated to accommodate a growing number of boating enthusiasts that may or may not be able to live on the water. Choto Marina is serious about providing a safe & family friendly atmosphere for all of us to enjoy & without question takes pride in providing a quality service.

We are sending this letter to demonstrate our support for the new gas dock facility, ship store, restaurant & additional slips that are currently planned for 2005.

We have seen many improvements to the facility & are satisfied that the marina management takes pride in providing a quality facility.

We thank you for your support in this effort & look forward to the 2005 boating season.

Best Regards,

August 17, 2004

Regulatory Branch
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

ATTENTION: J. Ruben Hernandez

RE: Public Notice No 04-48, Application No. 200401142

Dear Mr. Hernandez:

As president of Lakeshore Meadows Homeowners' Association, Inc., I am writing to express our concerns about the proposed expansion of Choto Marina at Mile 612.5, Right Bank, Tennessee River, in Knox County, TN. Choto Marina has gradually expanded over the years and the current owner is now proposing additional expansion that causes many of our homeowners serious concerns. In May 2004, the Knox County MPC denied Choto Marina's proposal for expansion noting that it is a non-conformance, pre-existing establishment that should not be allowed to expand to the detriment of surrounding homeowners. The Knox County Commissioners later approved the proposal based on a motion that basically stated, "let's approve it and see if they can get through the other approvals." We believe that the Corps of Engineers should support the MPC denial, not the Commissioners' political decision, for the following reasons:

First, portions of the proposed expansion call for erecting docks, gangways, gas stations, and storage facilities that will virtually cutoff or limit some long-term lakefront homeowners from enjoying their lakefront property, as in the case of the Amerson, Victory, Conner, and Engleman properties. In addition, the proposal calls for establishing a "gas station" right next door to the Batson's, a property owner whose family has owned and enjoyed this property for more than 30 years. The current location of the Marina gas station affords this homeowner considerable isolation from the hustle, bustle, and dangers associated with a refueling operation. Approval of the Choto Marina expansion proposal would set a dangerous precedent that potentially threatens all lakefront property owners, i.e., if Choto Marina can expand and build structures in front of property it does not own, what is to keep it or other commercial establishments from doing the same and where does such expansion end.

Secondly, our area residents are becoming increasingly concerned about the environmental impact of new developments in the area. Much of Choto Marina's recent excavations -- altering the shoreline, creating additional parking lots, building permanent docks, etc. -- were blatantly done without any soil abatement

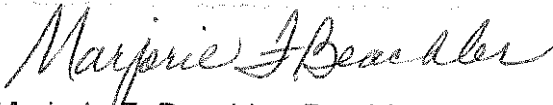
measures. This created lakewater pollution associated with runoff and affected all lake users and area residents including fish and other aquatic life. Choto Bend residents believe we should live in harmony with nature, not destroy it, and we are working hard to protect the natural beauty of our watershed area.

Lastly, the owner of Choto Marina proposes to establish two new businesses at the Marina -- a fairly large restaurant and a new boat sales operation. The residents of Lakeshore Meadows are very concerned about the additional traffic such establishments will bring to Choto Road. Choto Road is a narrow, hilly, winding road with several blind hills and curves and is dangerous with its current traffic levels. The increased traffic from the proposed expansion of the Marina and two new businesses, especially the boat sales operation, will exacerbate an already dangerous situation. While some large boats are currently transported down Choto Road, the reality is that the road simply is not suitable for increased traffic of this magnitude. The Knox County MPC noted in May 2004 during its review of a proposed residential development on Choto Road that, "Choto Road is already impacted by the Marina facility and may need to be widened per requirements of Knox County Engineering, prior to any development of this (the residential) site." The MPC denied this residential development and, later during that meeting, also denied the proposed Marina expansion.

We are not opposed the allowing Choto Marina to update and improve its facilities within current harbor limits, but we are opposed to any further expansion of harbor limits. As mentioned earlier, the Knox County MPC rejected Choto Marina's proposed expansion in May 2004, noting that Choto Marina is a pre-existing, non-conformance business which should not be allowed to expand to the detriment of surrounding property owners. We agree with the MPC's assessment and we believe that the requested expansion of harbor limits is contrary to the public interest and is a detriment to area homeowners and lake users.

Thank you for considering our concerns and we trust that you will deny this proposed expansion.

Sincerely,



Marjorie F. Beachler, President
Lakeshore Meadows Homeowners' Association, Inc.
3006 Whispering Cove
Knoxville, TN 37922

(865) 966-0437

August 25, 2004

US Army Corps of Engineers
Attn: J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

TVA Little Tennessee Watershed Team
Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenoir City, TN 37771

Reference: Public Notice No 04-48: Application No.200401142, Marina expansion

Dear Gentlemen:

I live and own property in Choto Marina between the Victory and Engleman properties. I find it deplorable that TVA and the Army Corps of Engineers are still being jerked around and manipulated by Mr. Jones, owner of Choto Marina. We went through this writing exercise with TVA last year in response to another Choto expansion application notice. We've been through six county zoning hearings, are involved in two and possibly three law suits concerning zoning variances and now you are considering laying aside what appears to be well established accepted distances from private property, docks, shore lines and main channel flow to allow docks that violate these standards as well Knox County standards for Marina Ordinances.

Mr. Jones is not the only one that has spent a lot of money on improvement of their property. Where as Mr. Jones has spent money on cutting trees, moving dirt and dumping gravel to park his new and used boats for sale, I've spent over \$150,000.00 in the last three years renovating and expanding my home. I feel if the harbor limits are changed to allow for all the additional docks shown on your drawing, all this money, time and effort to improve my property would pretty much be cancelled out if I ever put it up for sale. The same logic holds true for my neighbor Mr. Amerson who has spent over \$70,000.00 for his home improvements in the last three years.

To allow the marina to own or control the opposite shore line in order to install these docks (which would be my shore line) is hard for me to comprehend. What if I request a permit to replace or expand my dock for my enjoyment or need to dock a boat, will I have to ask permission of the marina to do so? This might be a mute point as it doesn't look like there would be enough room for me to request a permit for a maximum 1000 foot private dock to place in front of my property.

I, as well as every one who boats in this cove are concerned with the environmental issues this expansion request brings as additional baggage to those issues that already exist at a certain level which you are well aware.

I join others who are requesting a public hearing on this matter. I look forward to hearing from the Corps of Engineers and TVA as to why we private property owners have had to defend our rights for over a year, while docks that have no permits have been in use for over a year by the marina for rental slips and dockage for new and used boat sales.

I know the points that the Amersons and Batsons have made in their letters to you dealing with our many concerns and would find it redundant to again cover the same ground making this a reading and writing exercise for both of us. Please don't interpret this as a lack of agreement or support for those issues they have raised. I fail to understand why the Corps of Engineers has not told the marina what it can and can not do and put a stop to this ongoing saga that has already taken so much of a working mans time and energy, which I can ill afford.

Thank you for your time and consideration of my concerns. I ask you deny this application or schedule a public hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Terrance D. Conner". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Terrance D. Conner
12136 Choto Marina Way
Knoxville, TN 37922

August 25, 2004

Regulatory Branch

Attn: J. Ruben Hernandez

US Army Corps of Engineers

3701 Bell Road

Nashville, TN 37214-2660

TVA Little Tennessee Watershed Team

Attn: Gary Pettaway

Suite 300

804 Highway 321 North

Lenoir City, TN 37771-6440

Re: Public Notice No. 04-48; Application No. 200401142

Dear Sirs:

My husband and I are writing in opposition to application 200401142. We reside at 2834 Summershade Ln. 37922, 4 houses from Choto Marina.. I apologize for not composing my own letter but could not express my opposition more clearly than the Batson's have done in their letter. Please record our agreement with all parts of their letter. With the Batson's, we ask that you deny application 200401142 unless it is substantially modified to effectively address these concerns.

Sincerely,

The block contains two handwritten signatures. The first signature is in cursive and appears to read 'Charles N. Clark'. The second signature is also in cursive and appears to read 'P. Jane Cox Clark'.

Charles N. Clark

P. Jane Cox Clark

2834 Summershade Ln.

Knoxville, TN 37922

(865) 966-9640

(865) 803-4145

AUG 27 2004

August 24, 2004

U.S. Army Corps of Engineers
Regulatory Branch
Attn: J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214-2660

TVA Little Tennessee Team
Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenoir City 37771-6440

RE: Public Notice No. 04-48; Application No. 200401142

Dear Sirs:

I'm writing to provide comments in response to Joint Public Notice No. 04-48 that was issued by the U.S. Army Corps of Engineers (COE) and the Tennessee Valley Authority (TVA) in response to an application by MEJ Properties, LLC for expansion of facilities at Choto Marina at Tennessee River Mile 612.5 on Fort Loudoun Reservoir. I am an ecologist by academic training and vocation, and I have been a resident of the Choto area for more than 25 years. My principal concerns with the expansion of the marina are in the areas of (1) ecological impacts, (2) cumulative impacts, and (3) sustainable development.

Ecological Impacts

Expansion of the Choto Marina could have a significant adverse impact on the water quality of the small narrow cove. The sheltered location of the cove limits mixing and dilution of pollutants, such as (1) oil and gasoline from spills and leaks, (2) sediment from erosion and runoff of construction and parking areas, and (3) nutrients and bacteria from onsite facilities and septic tanks. Further degradation in water quality resulting from expansion of the marina seems likely because of the restricted surface area of the cove. Because the marina expansion could exceed the adverse effects threshold of the cove ecosystem, with a loss of important biotic resources, a rigorous quantitative assessment of environmental impacts should be conducted.

Cumulative Impacts

The Environmental Assessment (EA) that is prepared in order to comply with the National Environmental Policy Act of 1969 is required to assess cumulative impacts. That is, the EA can not be limited only to an assessment of the expanded facilities but must also consider the impacts of the existing marina operations and the proposed

AUG 25 2004

construction of two new dry storage facilities. In addition to the 37 new slips on the water, an additional 78 slots will be provided in dry storage. The number of slips on the water will increase from 120 to 157 (30%), and the number of dry slots will increase from 98 to 176 (80%).

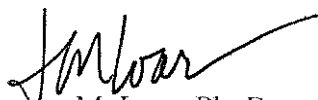
Other sources of impacts on the cove ecosystem must also be addressed. For example, the proposed future residential development that is planned for the 20-acre tract of land adjacent to and south of the cove should be considered. This land was rezoned in June 2004 for one dwelling per acre. With almost 70% of this tract consisting of moderate to steep slopes (i.e., >15 to 25% slope), the potential during construction for erosion and runoff into the cove at Choto Marina could be significant.

Sustainable Development

With its location in a small narrow cove of Fort Loudoun Reservoir, Choto Marina is an isolated commercial development in a largely rural residential setting. Expansion of the marina by more than 50% (based on the increase in both the number of slips on the water and the number of slots on land) is incompatible with the concept of sustainable development and with the unique rural setting of the Choto area. Recognizing the limits of commercial growth, and the potential for environmental degradation if those limits are exceeded, is a characteristic of sustainable development. The marina expansion would greatly exceed those limits by creating a high-density commercial operation with the potential to significantly impact the environment.

Please consider these comments during your preparation of the EA.

Sincerely,

A handwritten signature in black ink, appearing to read 'J. M. Loar', with a long, sweeping horizontal line extending to the right.

James M. Loar, Ph. D
1712 Nighbert Lane
Knoxville, TN 37922

Regulatory Branch
Attn: J. Ruben Hernandez
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2600

AUG 26 2004

TVA Little Tennessee Watershed Team
Attn: Gary Pettway
Suite 300
804 Highway 321 North
Lenoir City, TN 37771-6440

Lawrence and Rhonda MacIntyre
2810 Summershade Lane
Knoxville, TN 37922
August 24, 2004

Dear Sirs:

We are writing in response to the notice we received in the mail of the US Army Corps of Engineers and TVA Joint Public Notice No. 04-48 regarding the application by MEJ Properties, LLC for approval of additional boat storage and dockage at Choto Marina on Fort Loudon Lake. We have lived on the property at 2810 Summershade Lane since 1993. As long time residents, we have daily experience with driving on Choto Road. Choto Road is a narrow, two-lane curvy road. The proposed additional boat storage and dockage at Choto Marina will result in more traffic on Choto Road, including vehicles towing large boats. We are concerned that the additional traffic traveling on Choto Road will cause unsafe driving conditions.

Secondly, the proposed location and number of additional docks at Choto Marina will result in the marina cove being very narrow and difficult to navigate. The placement of the covered docks in front of existing houses will block their view of the lake. We purchased property and built a home on the lake in order to enjoy the view of the water. The residents of Choto cove have also enjoyed their unobstructed view of the water for years. Lake property costs more because of this view and access to the water. As property owners, we have always believed that our investment would be protected by the regulations of TVA and the county, and that we wouldn't have our property devalued by someone building something in front of our home. This is exactly what is happening to the Choto cove residents, and we ask that you prevent this from occurring.

Another concern with the proposed development is the adverse affect on the environment and the change of character of the area. The Choto area is a rural, sparsely developed area, and as such it is a natural setting with various animals including deer, red fox, birds, turtles, turkeys, and even rumor of a bobcat.

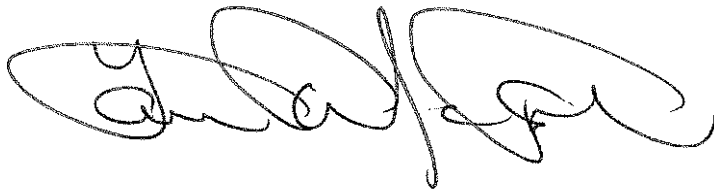
Building more boat storage and parking will disturb and remove habitat for the wildlife and will expose the animals to more people and traffic. Digging the soil and clear-cutting the land will also result in run-off into the lake. Additional people in the marina, including people living on houseboats will result in more pollution in the lake. Our children swim in the lake in the cove just west of Choto Marina, and we don't want the lake to become more polluted.

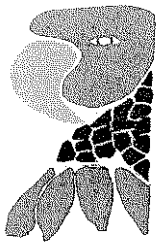
I appreciate your time to consider our concerns, and ask that you enforce a policy of responsible development to the Choto Marina area. I understand that MEJ Properties, LLC can make more money if they develop the marina as proposed. But I also believe that any development should be done with a respect for the land, the lake, and the residents who wish to make this area our home for the rest of our lives.

Thank you,

Lawrence P. MacIntyre

Rhonda L. MacIntyre

A handwritten signature in black ink, appearing to read 'Lawrence P. MacIntyre', written in a cursive style.

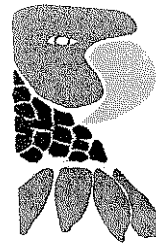


PARROTT MARINE SYSTEMS, INC.

10439 Lexington Drive • Knoxville, TN 37932

**RESIDENTIAL AND COMMERCIAL
BOAT LIFTS AND DOCKING SYSTEMS**

Phone (865) 671-7445 • Fax (865) 671-7446



August 25, 2004

US Army Corp of Engineers
J. Ruben Hernandez
3701 Bell Road
Nashville, TN 37214

AUG 26 2004

Tennessee Valley Authority
Gary Pettway
804 Hwy 321 North
Lenoir City, TN 37771

Dear Gentlemen,

I am writing in response to the information I received from your office regarding the expansion plans at Choto Marina. Having owned and operated Choto Marina for almost twenty-four years, I am very familiar with the property lines and harbor limits. I personally find it absurd that the US Army Corps of Engineers and the Tennessee Valley Authority would even consider the expansion proposed by the owner of Choto Marina. In the years I owned the marina I built every dock and building that now occupy the property. I did these improvements strictly according to the rules and regulations of TVA and the Corp of Engineers. Since the current owner has been in business he has built two large docks, neither of which was within the marina harbor limits or had permits from TVA, the Corps of Engineers or Knox County. According to public record Knox County was the only one of the three to actually do anything about this blatant disregard for every rule and regulation of marine construction. You will also note that unless the harbor limits have been changed very recently without going through the proper channels, the submitted plan is a false representation of where the true limits are.

I am currently the owner and president of Parrott Marine Systems, Inc. My company is the largest marine construction firm in East Tennessee and is at this moment involved in the construction of four large commercial projects on Fort Loudon, Tellico and Douglas lakes. I deal with projects like this on a daily basis, all in accordance with your rules. I have never seen such blatant disregard for the rights of the homeowner as has been shown by TVA and the Corp of Engineers the last two years for the poor people who had the misfortune of owning property in the same cove as MEJ Properties.

The rules of navigation, as they have been explained to me many times by the Corps of Engineers and TVA, state that the property owners on each side of a cove are entitled to

use one third of the cove with the middle third to be used for navigation. Apparently this rule is not being considered in this case. These expansion plans will reduce the value of the homes of the property owners involved to the point that the only person who would even consider purchasing them in the future would be the owner of Choto Marina. That is exactly what he wants since the homeowners have refused to buckle under his pressure and sell their homes to him.

This is an obvious tactic that he has used before. Since he purchased the marina almost two years ago he has employed everything short of terror tactics to run the people whose property he wants out of their homes. He has threatened lawsuits, blocked lake views and access with unapproved docks, falsely billed them for work he has done on his own property, run up their legal bills, put garbage dumpsters as close to their house as possible partially blocking their driveway, and sent letters to his customers falsely accusing his neighbors of trying to get rid of the marina altogether to instigate a letter writing campaign in his favor. I have included a copy of this letter. In it, you can plainly see that he has misled his customers into thinking that they are sending his prewritten letter to you in order to save their marina from being closed down when in fact it is simply another underhanded ploy to get what he wants.

It is a common negotiating tool to ask for much more than you want or need in the hopes that the threat of this will force the other side to compromise. This is obviously what is going on here. It is yet another threat to neighbors from a person who thinks he is above the rules and can do anything he wants because he has more money for lawyers and expenses than the people he is trying to take advantage of, a fact that he has boasted about to me on more than one occasion.

This man is trying to buy and threaten his way into running his neighbors out of their homes in order to make his marina larger while the existing marina falls into disrepair and customers are leaving in droves due to erratic hours and poor service. I hope that the Tennessee Valley Authority and the US Army Corp of Engineers will finally stand up to MEJ Properties and make them live and work by the same rules and regulations that the rest of us do. I would like to see a public hearing on this matter. I don't know if being lien holder on Choto Marina as well as the property owned by the Amersons entitles me to request one, but if it does please consider this my request.

I would like to see Knox County, the Corp of Engineers and TVA sit down together and once and for all set the limits for what kind of expansion can be done at Choto Marina so the people that share this cove can be liberated from years of legal fees and threats and resume enjoying their lake homes without the threat of having a boat dock in their backyards.

Best Regards,



Kirk R. Parrott

Attn: M. J. Rubin Hernandez

Aug 25, 2004

To Whom it may Concern:

I recently wrote you supporting the Choto Marina expansion. I would like to clarify my support as I was not aware of several facts. I did not know the Knox County MPC had disapproved this expansion in May.

Also, I was told the gas pumps would not be visible from any home owners property. I understand ^{now} this would be in front of some owners property. I definitely would not support this ^{only} to make boat owners have better access to fuel. I do not know the planned size or exact location of the planned restaurant but could support it if it did not interfere with the homeowners or create a noise problem.

The new owners have done much to improve the marina and expanded the facility. A boat sales facility is already in operation near the office, but I would object to it being located in or very near the main channel.

Thank you.

Ronald H Perry
3002 Windy Ridge Pt
Knoxville, TN 37926

406802064

August 24, 2004

Regulatory Branch
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

AUG 26 2004

ATTENTION: J. Ruben Hernandez

RE: Public Notice No 04-48, Application No. 200401142

Dear Mr. Hernandez:

As residents of Choto Bend, I am writing for my husband Edwin and myself to express our concerns about the proposed expansion of Choto Marina at Mile 612.5, Right Bank, Tennessee River, in Knox County, TN. Our home is located at 2848 Summer Shade Lane and our property is located directly on Fort Loudon Lake in the next cove downstream (toward Fort Loudon Dam) from the marina. We are also avid boaters and rented a slip at Choto Marina for many years. As business owners ourselves we have thought carefully about our response to the proposed expansion of Choto Marina. That is because we are not against development and we understand the desire to maximize a business investment.

But we have to ask The US Army Corps of Engineers and The TVA to deny this proposal. That is because, approval of the Choto Marina expansion would set a dangerous precedent that potentially threatens all lakefront property owners. By allowing the expansion of the harbor limits The US Army Corps of Engineers and The TVA would be allowing one property owner (who happens to be commercial) to cut off the view and the safe and reasonable access of another property owner. The harbor limits expansion would virtually cutoff certain lakefront homeowners from enjoying/accessing their lakefront property, as in the case of the Amerson, Conner, and Engleman properties. In addition, the proposal calls for establishing a floating fuel dock right next door to the Batson's property and very close to an extremely busy main channel of the Tennessee River and the dangerous wakes that are always present. It is clear that the King property and most probably the Victory property will be sold or has already been sold to the Marina owner or one of his agents.

Also, we are concerned about the current owners lack of concern for the Corps, the TVA, and Knox County's rules and ordinances. Adding docks with out proper permits, operating a Grill with out a Health Certificate, these are behaviors that say the rules that apply to everyone else just do not apply to MEJ Properties. Based on previous behavior why should any of us think that MEJ Properties, DBA Choto Marina is going to do what it says? Further more, much of Choto Marina's recent excavations -- altering the shoreline, creating

additional parking lots, building docks with out proper approval, etc. -- were blatantly done without any soil abatement measures. This created lake water pollution from runoff and affected all lake users and area residents including fish and other aquatic life.

We are not opposed to allowing Choto Marina to update and improve its facilities within current harbor limits, but we are opposed to any further expansion of harbor limits. The Knox County MPC rejected Choto Marina's proposed expansion in May 2004, noting that Choto Marina is a pre-existing, non-conformance business that should not be allowed to expand to the detriment of surrounding property owners. We agree with the MPC's assessment and we believe that the requested expansion of harbor limits is contrary to the public interest and is a detriment to area homeowners, lake users and commercial traffic on the Tennessee River.

Thank you for considering our concerns and we trust that you will deny the proposed harbor expansion.

Sincerely,



Lillian R. Rayson
2848 Summer Shade Lane
Knoxville, TN 37922

Edwin H. Rayson, III
2848 Summer Shade Lane
Knoxville, TN 37922

(865) 966-8365

(865) 966-8365

August 23, 2004

Regulatory Branch
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

ATTENTION: J. Ruben Hernandez

RE: Public Notice No 04-48, Application No. 200401142

Dear Mr. Hernandez:

We are writing to express our concerns about the proposed expansion of Choto Marina at Mile 612.5, Right Bank, Tennessee River, in Knox County, TN. Choto Marina has gradually expanded over the years and the current owner is now proposing additional expansion that causes serious concerns. In May 2004, the Knox County MPC denied Choto Marina's proposal for expansion noting that it is a non-conformance, pre-existing establishment that should not be allowed to expand to the detriment of surrounding homeowners. The Knox County Commissioners later approved the proposal based on a motion that basically stated, "let's approve it and see if they can get through the other approvals." We believe that the Corps of Engineers should support the MPC denial, not the Commissioners' political decision, for the following reasons:

First, portions of the proposed expansion call for erecting docks, gangways, gas stations, and storage facilities that will virtually cutoff or limit some long-term lakefront homeowners from enjoying their lakefront property, as in the case of the Amerson, Victory, Conner, and Engleman properties. In addition, the proposal calls for establishing a "gas station" right next door to the Batson's, a property owner whose family has owned and enjoyed this property for more than 30 years. The current location of the Marina gas station affords this homeowner considerable isolation from the hustle, bustle, and dangers associated with a refueling operation. Approval of the Choto Marina expansion proposal would set a dangerous precedent that potentially threatens all lakefront property owners, i.e., if Choto Marina can expand and build structures in front of property it does not own, what is to keep it or other commercial establishments from doing the same and where does such expansion end.

Secondly, our area residents are becoming increasingly concerned about the environmental impact of new developments in the area. Much of Choto Marina's recent excavations -- altering the shoreline, creating additional parking lots, building permanent docks, etc. -- were blatantly done without any soil abatement measures. This created lakewater pollution associated with runoff and affected

all lake users and area residents including fish and other aquatic life. Choto Bend residents believe we should live in harmony with nature, not destroy it, and we are working hard to protect the natural beauty of our watershed area.

Lastly, the owner of Choto Marina proposes to establish two new businesses at the Marina – a fairly large restaurant and a new boat sales operation. The residents of Lakeshore Meadows are very concerned about the additional traffic such establishments will bring to Choto Road. Choto Road is a narrow, hilly, winding road with several blind hills and curves and is dangerous with its current traffic levels. The increased traffic from the proposed expansion of the Marina and two new businesses, especially the boat sales operation, will exacerbate an already dangerous situation. While some large boats are currently transported down Choto Road, the reality is that the road simply is not suitable for increased traffic of this magnitude. The Knox County MPC noted in May 2004 during its review of a proposed residential development on Choto Road that, "Choto Road is already impacted by the Marina facility and may need to be widened per requirements of Knox County Engineering, prior to any development of this (the residential) site." The MPC denied this residential development and, later during that meeting, also denied the proposed Marina expansion.

We are not opposed the allowing Choto Marina to update and improve its facilities within current harbor limits, but we are opposed to any further expansion of harbor limits. As mentioned earlier, the Knox County MPC rejected Choto Marina's proposed expansion in May 2004, noting that Choto Marina is a pre-existing, non-conformance business which should not be allowed to expand to the detriment of surrounding property owners. We agree with the MPC's assessment and we believe that the requested expansion of harbor limits is contrary to the public interest and is a detriment to area homeowners and lake users.

Thank you for considering our concerns and we trust that you will deny this proposed expansion.

Sincerely,

Jois G. Reynolds
ARLIN REYNOLDS
3001 MEADOW COVE POINT
KNOXVILLE, TN 37922

(FIRE DANGER??)

COVE IS TOO SMALL FOR ANY MORE LARGE BOATS.
BOATS + DRINKS ON WRONG SIDE OF CHOTO
ROAD ALL THE TIME
Aaa 8/28/04

August 25, 2004

Regulatory Branch
US Army Corps of Engineers
3701 Bell Road
Nashville, TN 37214-2660

Dear Mr. Hernandez:

I'm a resident of the Rivendell subdivision located near the Choto Marina. I have been just made aware of that Choto Marina wants to place a gas pump doc at the mouth of the small cove from which they operate their business from.

A couple of things that comes to my mind immediately would be the serious consequences of a spill and the restriction of access to property owner's lake front access.

Choto Marina has not been a good neighbor; they have not kept their commitments to the county. They have several non-conforming buildings, and just this spring, constructed a large dock that was outside the Corp of Engineer's published restrictions. I believe they have removed that dock, but it shows their disregard to the neighborhood.

The concern I have as far as the ecology, right now if there was a break in the fuel lines, while it being a environmental disaster, it would be easier to contain than if the leak occurred near the main channel. The leak would go directly into the main channel, affecting all of the residence down river.

Also, this fueling doc would affect several home owners very significantly, and in fact, would affect not only the homeowners that live at the mouth of the cove, but affect the amount of traffic that the road leading into the Choto Marina. I speak of the road access to the marina.

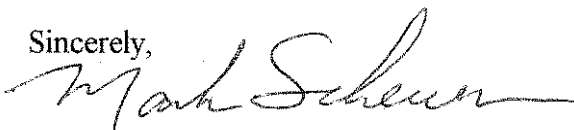
This road is known as roller coaster alley, and is dangerous. Having a 15-year-old daughter who is learning to drive, and a 13 year old closely behind, the concerns with more traffic would be in the minds of every parent.

Finally, the Choto Home Owners group recently won a disputed variance, which the 20-acre tract that is immediately behind the proposed fueling doc, was contested. The MPC decision not to provide more than 1 house per acre, citing that a change to this county code would not fit the overall neighborhood plan is very rare, and the decision to deny the appeal was unanimous.

I believe the Choto Marina is already too large for that small cove, and to move the fueling station would only increase traffic, and would have a very severe impact on the homeowners.

I hope you will understand my position and deny Choto Marina's request per Public Notice No. 04 48 App. No. 200401142

Sincerely,



Mark Scheuer
2901-26 Choto Road
Knoxville, TN 37922

AUG 30 2004

August 22, 2004

AUG 26 2004

J. Ruben Hernandez
U. S. Army Corps of Engineers
3701 Bell Road
Nashville, TN 37124

RE: Public Notice 04-48 / Choto Marina Expansion

Dear Mr. Hernandez:

I have been a slip tenant at Choto Marina for three boating seasons.

Many times the non-tenant boating traffic into the current fuel and pump-out station create conditions so crowded that you cannot safely maneuver to get fuel and cannot reach the pump-out facility. I support the proposed expansion and modification of the marina with respect to the marina's plans for constructing new fuel stations, pump-out station, and a new ship's store at the downstream end of the marina. This expansion and relocation means non-marina boaters will not have to travel deep into this very tight marina for fueling, pump-out, or purchase of supplies. I am convinced that the marina will be safer, quieter, and more convenient to marina tenants, while providing improved, safer services for the general boating public.

I do object to a design element that I believe creates an unsafe traffic lane. The proposed new "E" dock (intended to berth very large boats) as shown on the Public Notice drawings, in my judgment, should be eliminated or reconfigured to provide a significantly straighter pathway into the marina around the proposed new fuel dock. As drawn, an entering boat must motor past the new docks and moored boats, make a left turn around this facility to avoid new "E" dock, and make a hard right turn around "E" dock to enter the marina traffic lane, which appears very narrow. Similarly, boats leaving the marina in this lane will not be able to see around "E" dock. With such little room for maneuvering, I would expect numerous boat and dock collisions. Please take steps necessary to require a more safe design of this element of the marina expansion.

Sincerely,



Roger Smith
865-777-0353

File No. 200401142

Appendix D

Applicant's Rebuttal

September 23, 2004

J. Ruben Hernandez
Project Manager
Department of the Army
Nashville District, Corps of Engineers
Regulatory Branch
3701 Bell Rd
Nashville, TN 37214

Dear Mr. Hernandez,

Enclosed you will find the following:

- 1) Historical Overview
- 2) Detailed Response
- 3) Knox County Zoning approvals
- 4) SPCC Plan
- 5) Emergency Plan
- 6) Respective Photographs

Best Regards,



Mitchell E. Jones
Chief Manager

SEP 24 2004

Historical Overview

July 22nd 2002: I began looking for marinas on Ft Loudon Lake. I hired the legal firm of Ayres and Parkey to help with the initial research of the market. After much consideration, Choto Marina was my final choice; prior to my purchase, it had most recently sold from Kirk Parrott to Raymond Marrow in November 2001. Throughout the fall of 2002 we completed our due diligence and recognized a number of changes that needed to be made to Choto Marina. Some of the major renovations were; the dry storage operation, fueling facility, easements and restaurant operation. During the due diligence process, a number of meetings were conducted with Kirk Parrot, the previous marina owner and mortgage holder to discuss the future of Choto Marina and reconciling past problems that had occurred.

December 5th 2002: I shared the future plans with Mr. Parrot, (Chris Martin from Ayres and Parkey was also in attendance) which included relocating the fueling facility, improving infrastructure, adding additional dry storage capacity, adding additional on-water storage slips and the granting of an easement for the benefit of an adjoining parcel, carved out of the marina property and owned by Kirk Parrott, but occupied by his father-in-law Jim Amerson. Mr. Parrot supported the project and realized that the improvements were for the betterment of the marina, surrounding area and property owners. Mr. Parrot also indicated the desire to be the prime contractor for the expansion and future development of the Marina. MEJ Properties purchased the Marina December 22nd 2002 and immediately began to implement the necessary improvements required to bring the facility up to the quality level of the surrounding neighborhoods.

January 2003: The first project began, this was to widen the entrance to Choto Marina, provide on water parking for dry storage customers, as well adding 35 surface parking spots. Next, we began to investigate the restaurant operation. This was done by a private research firm. We uncovered a number of problems with the current restaurant operations. We immediately began the process of evicting the restaurant operators due to the undesirable traffic on Choto Road, the bar operation and the sale of inappropriate substances on the property. Through chancery court in Knox County, Chancellor John Weaver ruled in favor of Choto Marina to remove the restaurant operations from the property as of June 2003. In addition, there were a number of boat owners that were asked to leave.

Spring of 2003: I applied with the TVA a 26-A to construct a walkway, on water parking slips and the dredging of the bank upstream along Choto Marina Way. We were given a verbal approval to begin construction and received written approval in June 2003. In May of 2003, I also submitted a 26-A to construct 19 floating slips, nine of which are adjacent to the Gerald Victory property, ten along the Hoskins property. We were given verbal approval by the TVA to construct these slips. Immediately after receiving the verbal approval from the TVA I contacted Jim Amerson, who lives to the north of the Gerald Victory property to advise him of our intent to construct the nine slips adjacent to the Victory property. At that time, Mr. Amerson stated he did not own the property in which he resided. Kirk Parrot was the owner. Mr. Amerson also said he had minimal concerns with the construction of these slips.

May of 2003: Terry Conner, who owns the property to the south of Gerald Victory was also notified of our intent to construct nine slips adjacent to the Victory property. His initial response was supportive as long as we provided him a place to park his boat. Also during this time, we were having discussions with Kirk Parrot to be the prime contractor in the renovations at Choto Marina, it was later decided through the bidding process to use another contractor.

July 2003: Choto Marina began construction of the additional slips. Once the construction was underway, we were asked to suspend construction by Knox County due to us not filing for a building permit. Once we were made aware of the requirement, we stopped work and relocated the nine slips to the King property. Research provided by our legal representative indicated that docks built on the Knox County side of Ft Loudon Lake had routinely been constructed without a building permit therefore; Choto Marina was unaware of the requirement to apply for a building permit.

September of 2003: We began the process of a "use on review" with the Metropolitan Planning Commission and the Knox County Commission. Through this process, there were a number of violations that the previous owner of the marina had ignored that I had to correct with the Board of Zoning Appeals. In January of 2004, we were successful in complying with the local ordinance set by the Board of Zoning Appeals.

January 2004: Choto Marina began the application process with the Board of Zoning Appeals and the Metropolitan Planning Commission to receive six variances necessary to complete the improvements.

May of 2004: At a public hearing with the Board of Zoning Appeals, in a unanimous vote and with Metropolitan Planning Commission staff recommendation to approve, Choto Marina was granted all six variances to complete the improvements applied for. This process required numerous public hearings and feedback from the surrounding neighborhood and neighborhood associations.

It is important to note that the management of Choto Marina has spent innumerable hours meeting with the neighborhood associations to express the future plans and upgrades being proposed and we have received overwhelming support from the majority of neighbors in favor of the planned improvements.

At this time I think it is important to discuss three neighbors that are adjacent to the Marina and what has been done to satisfy their concerns:

Jimmy and Betty Amerson: Prior to construction of the slips adjacent to the Victory Property, I met on more than one occasion with the Amersons about the improvements that I had discussed with their son-in-law, Kirk Parrot. The initial discussions were more to the concerns that Kirk Parrot had not handed over the deed to Mr. Amerson for the property in which he resides. We also discussed the height of the boat slips roofline, as Mr. Amerson believes it would impede his vista. Currently, Mr Amerson's residence has a direct view of "I" and "J" dock. His view is not facing the lake. His view is currently to a preexisting row of slips that have a roofline of 25 feet. Additionally, the State of Tennessee does not recognize the existence of a right with respect to a home owner's vista. however, in the spirit of cooperation, we have relocated the slips adjacent to the Victory property to the center of the cove. We have also decided not to erect our gas and fueling facility adjacent to Mr. Amersons residence, currently at the location of "E" dock, which Knox County previously has given written approval and authority to build. Additionally, Mr. Amerson recently has erected a personal dock with a roofline of approximately 15 feet sitting in front of his home.

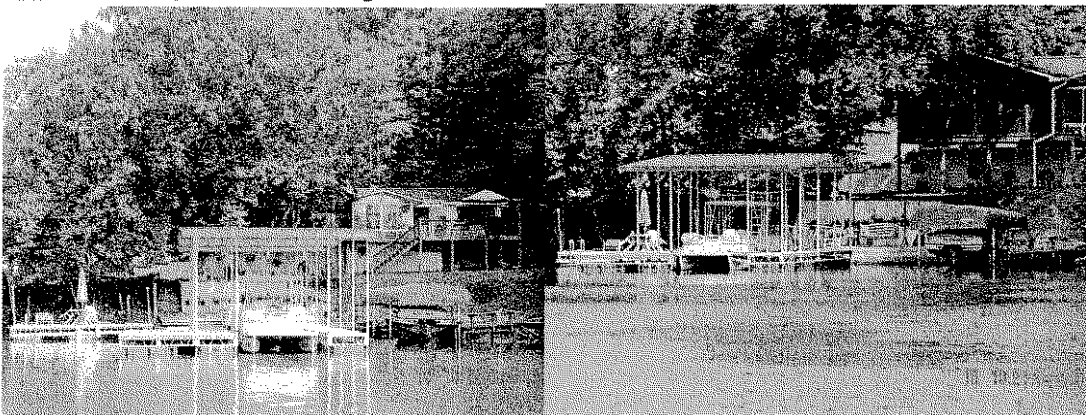
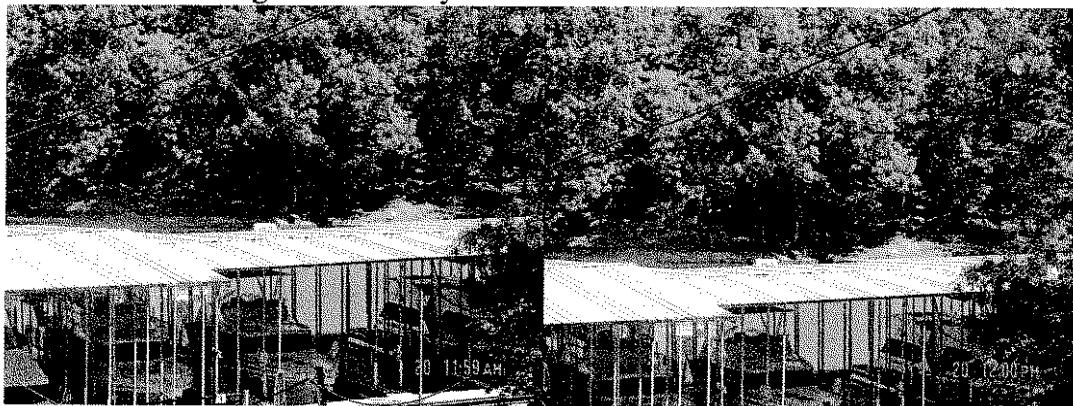


Photo Taken from "I and "J" Dock

Terrance Conner: Currently Terrance Conner residence is situated on his property to provide a view of the preexisting “J” and “I” docks. When Terrance Conner purchased this property, he was fully aware that his residence was within a commercially zoned and operated marina. In discussions with Terrance Conner, his initial response to the planned improvements was with no objection as long as Choto Marina provided him a boat slip and a no bid contract for black top and parking additions. In the spirit of compromise, we have requested in our harbor limit expansion, to allow for a 40 foot buffer from Terrance Conner shoreline, also to leave Terrance Conner substantial access both upstream and downstream a navigable waterway.



Photo's taken from “I” and “J” dock

Dan and Judy Batson: In April of 2003, I attempted on a number of instances to contact Dan and Judy Batson to discuss the future improvements of Choto Marina and to solicit their feedback as to allow for a smooth process. The requested permit for a fueling facility located upstream in Choto Marina Cove is well out of sight of Dan and Judy Batson's residence. Through discussions with Dan and Judy Batson, I have indicated my willingness to restrict the hours of operation and provide all available safety measures to have minimal ecological impact. It must also be said that Dan and Judy Batson are not current residents of the state of Tennessee and are not residents of Knoxville or this location nine months of the year.



Photo taken from proposed
Location of Gas Dock

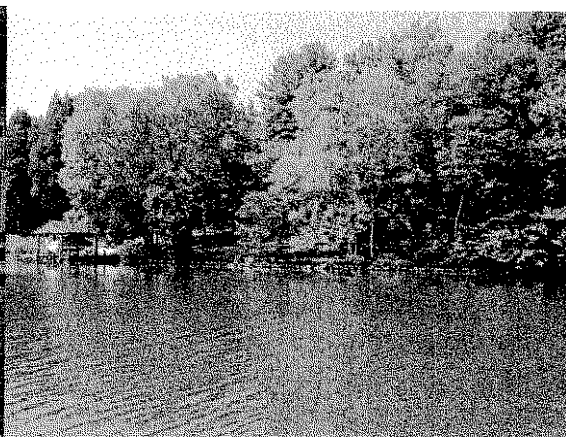


Photo taken from proposed
location of gangway

September 22, 2004

J. Ruben Hernandez
Project Manager
Department of the Army
Nashville District, Corps of Engineers
Regulatory Branch
3701 Bell Rd
Nashville, TN 37214

Dear Mr. Hernandez:

Enclosed is a detailed response to the questions that have been raised by the public as outlined in your letter of September 8, 2004. I am pleased to make these submissions and look forward to future discussions to clear up any concerns for the planned improvements of Choto Marina.

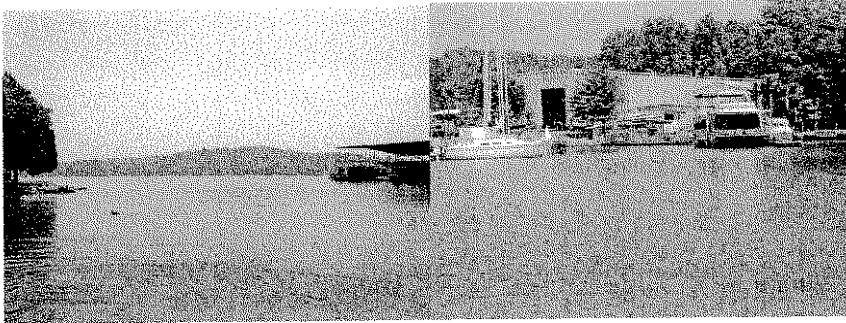
a. **General Safety** - Yes we have a written emergency plan. Please see the enclosed attachment.

b. **Water Quality** - Yes we have a written marina emergency response plan. All employees that dispense fuel have been trained on emergency procedures. We feel confident in the event of an emergency we will act quickly, insuring public safety and with complete regard for the ecological impacts. Please see attached for emergency response plan.

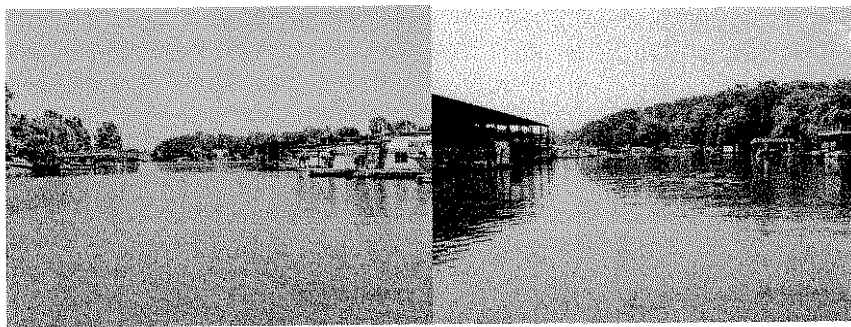
c. **Congestion, Property Access, etc.** - The current marina operation, at its narrowest point is 40 feet between the existing "I" dock and "E" dock. This preexisting area has been navigated for more than 20 years without incident. We currently have 45 foot boats navigating in this area. In response to the concerns of the Amerson, Conner, Batson and Engleman families we have provided between 70 feet and 96 feet of width from the east shoreline to the nearest floating structure for navigable waterway. With respect to floating structures, all floating facilities are on property controlled by Choto Marina. As part of our approved 26-A in 2003, the TVA recognized a concern by Mr. Chip Howard and a navigable easement was provided to Mr. Howard to ensure his egress and ingress to the upstream portion of Choto Marina Cove. We believe we have allowed the same consideration for Mr. Amerson, Conner, Engleman and Batson. We also provided for all entrances to the proposed slip expansion of "D" dock to be entered west to east. This will eliminate most all traffic in front of the Amerson and Conner residence.

d. **Codes and Zoning** - In previous public hearings Choto Marina was granted all necessary variances and approvals by the Metropolitan Planning Commission, Board of Zoning Appeals and Knox County Commission to complete the proposed improvements. In one of the approvals, Choto Marina received a waiver between a dock and the Amerson residence from 300 feet to 100 feet as to relocate the fuel dock at the end of the current "E" dock location. This location would greatly enhance boat traffic and safety over the current location, but would be located much closer to the Amerson property. To minimize the potential impact on the Amerson property, we also applied for and received approval from Knox County for an alternate site to relocate the gas dock downstream of "J" dock. This option required us to obtain a waiver of distance between a dock and residence from 300 feet to 120 feet for Batson, Engleman and Conner properties for the fuel dock and ship store downstream of "J" dock. We have elected the "J" dock option to minimize the impact to Amerson, and because it offers even greater boater traffic management and safety features. Choto Marina also received a waiver of ownership or control of the opposite shoreline within 200 feet of all docks to 0 feet of all docks. Choto Marina was granted waiver of ownership inland of the opposite shoreline from 100 feet to 0 feet. Attached to this submittal for your review are the six variances granted.

e. **Navigation Safety** – The proposed fueling facility and ship store at summer pool is approximately 96 feet from the opposite shoreline owned by the Englemans'. In reviewing a number of other marinas on Fort Loudon Lake, specifically Ft. Loudon Dam Marina, International Harbor, PJ's Marina and Ft. Loudon Yacht Club our entrance into Choto Marina Cove is greater than these identified Marinas.



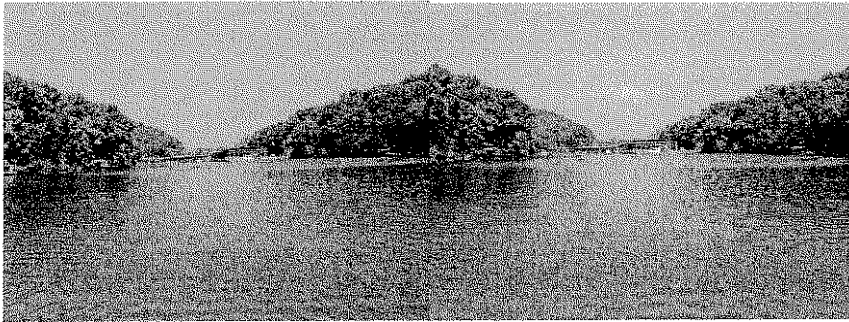
Ft Loudon Dam Marina Entrance **80 feet**



International Harbor Marina Entrance **60 feet**



PJ's Landing Marina **30 feet**



Ft. Loudon Yacht Club 40 feet

Through recent discussions with our current tenants, the ideal layout of the fueling facility & ship store is to provide a breakwater downstream of the ship store & to provide wake protection in the fueling area. That is being accomplished with the proposed facility. With respect to the ease of navigation in & out of Choto Marina Cove, it is clear that larger boats are being docked downstream which will allow for smaller boats to navigate in and around the dry stack operation more easily & safely. The current design element of the cove provides for safe navigation for the boating community as well as the fishing community.

- f. **Noise and Aesthetics** – During the summer of 2003, Choto Marina aggressively limited the noise impact for the current marina customers as well as the neighbors in the Choto Marina Cove. We removed the bar operation that operated past 1:00am on frequent occasions and eliminated the loud music that was operating within the bar. It is our practice to have all fuel dock & ship store operations closed by 8:00pm on weekends & 6:00pm on weekdays. The Marina hours are consistently published on our website throughout the year for your review. It is also a well known fact that we provide for 24hr security services for our marina customers. During the removal of the bar operation in 2003 we made a significant impact in transitioning the marina into a family atmosphere by providing security for our customers & by limiting the amount of local traffic that frequented the bar operation. In the spirit of cooperation with the neighbors, I have lowered the dock heights for the proposed "D" dock expansion as well as relocating the docks from the Victory property. Jimmy Amerson & Terrance Connor's views are currently to the southwest & west respectively. Each of them has been looking at dock roofs since their purchase of the respective properties. Mr. Amerson has just completed the construction of a new covered dock with a roof height of approximately 20 feet located in full view of the front of his residence.
- g. **Highway Traffic** – This subject has been misrepresented by a number of comments made to the Tennessee Valley Authority & Army Corp of Engineers. Let me clarify the record. During the number of public hearings with Knox County, the traffic utilization of Choto Road has been estimated to be 27% to 56% of utilization depending on the weather, day of the week, holidays & time of day. This utilization is well within the capability of Choto Road. By removing the bar operation, we have most decidedly provided for a safer use of Choto Road. That was one of the major goals in the removal of the bar operation. The delivery of smaller runabouts is done by truck with scheduled deliveries during the day. Boats/Yachts that are 25' & larger are delivered to Tellico Harbor and driven to Choto Marina by water. I am confident in the fact that if Knox County had a concern with respect to increased traffic on Choto Road due to our improvements some type of recommendation would have been made by either the Metropolitan Planning Commission or the Knox County Board of zoning appeals.
- h. **On-Board Living** - During my ownership there has never been nor will ever be permanent on-board living by houseboat or by 3A non-navigable houseboats.

September 22, 2004

With respect to the commenter's opinions on the matter of "Choto Marina not following the rules", since August 2003 all improvements made and the proposed improvements are and/or will be within the requirements set by the Metropolitan Planning Commission Staff recommendation, Knox County Board of Zoning Appeals, Knox County Commission & Knox County Health Department.

In quoting Mayor Ragsdale's Chief of Staff Mike Arms, "Choto Marina is making the required improvements that have not been made by the previous owners and to bring the Marina in line with the surrounding neighborhoods". I ask the support of the Tennessee Valley Authority and The Army Corp of Engineers to approve the planned improvements and to allow Choto Marina to begin the process as soon as possible.

Sincerely,

A handwritten signature in cursive script, appearing to read "Mitchell".

Mitchell E. Jones
Chief Manager

Cc: Christopher Martin, John King, Gary Pettway



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of distance between a dock and residence from 300 feet to 114 feet (Amerson, Conner & Engleman Property for rental slips to the South of the Victory Property). Property is located at Choto Road, Subdivision, CLT Map 170, parcel 064.02, lot .

Sincerely,

A handwritten signature in cursive script that reads "Debbie Edington".

Debbie Edington
Code Administration



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of ownership inland of the opposite shoreline from 100 feet to 0 feet within 200 feet of all docks (Engleman & Conner Properties for fuel dock & ships store to the North of King Property). Property is located at 2600 Whitten Lane***, Subdivision, CLT Map 172, parcel 2,002.01, lot .

Sincerely,

Debbie Edington
Code Administration



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of ownership or control of the opposite shoreline within 200 feet of all docks to 0 feet of all docks (Engleman & Conner Properties for fuel dock and ships store to the North of King Property). Property is located at 2600 Whitten Lane**, Subdivision, CLT Map 172, parcel 2,002.01, lot .

Sincerely,

A handwritten signature in cursive script that reads "Debbie Edington".

Debbie Edington
Code Administration



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of distance between a dock and residence from 300 feet to 100 feet (Amerson Property for fuel dock at E-dock location). Property is located at 12214 Choto Marina Way*, Subdivision, CLT Map 170, parcel 070, lot .

Sincerely,

Debbie Edington
Code Administration



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of distance between a dock and residence from 300 feet to 220 feet (Batson, Engleman, & Conner Properties for rental slips to the North of the King Property). Property is located at 2600 Whitten Lane*, Subdivision, CLT Map 172, parcel 2,002.01, lot .

Sincerely,

Debbie Edington
Code Administration



OFFICE OF COUNTY MAYOR

Department of Code Administration and Inspection • 400 Main Street, Suite 547, Knoxville, TN 37902

May 4, 2004

Len Johnson, R. Len Johnson and Associates
724 Taylor Road
Knoxville, TN 37920

Dear Len Johnson, R. Len Johnson and Associates:

On 5/3/2004, the Knox County Board of Zoning Appeals approved a variance of the Knox County Zoning Resolution for waiver of distance between a dock and residence from 300 feet to 120 feet (Batson, Engleman, & Conner Properties for fuel dock and ships store in cove North of King Property). Property is located at 2600 Whitten Lane, Subdivision, CLT Map 172, parcel 002.01, lot .

Sincerely,

Debbie Edington
Code Administration

CHOTO MARINA

EMERGENCY NUMBERS and PROCEDURES

Spill Prevention Control and Countermeasures (SPCC) Plan

Report Prepared for:
Choto Marina
12214 Choto Marina Way
Knoxville, TN 37922

Report Prepared by:
Choto Marina
(In conjunction with information gathered from :
Tennessee Valley Authority
Energy Research & Technology Applications
Environmental Engineering Services East
Knoxville, TN)

September 15, 2004

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Plan Certification

Facility Name: MEJ,LLC. dba. Choto Marina

Facility Type: Marina and Fueling

Date that initial operations started: 1950s

Facility Address: 12214 Choto Marina Way
Knoxville, TN 37922

Person Designated for enforcing Spill Prevention Control and Countermeasures Plan:

Name: Mitchell Jones
Title: Owner, CEO
Managing Partner
Telephone: (865) 966-5472

Name: Gregory Steele
Title: General Manager
Telephone: (865) 966-5472

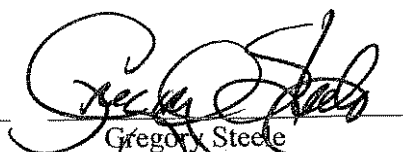
Name: David Lawrence
Title: Marina Superintendent
Telephone: (865) 966-5472

Management Approval Statement:

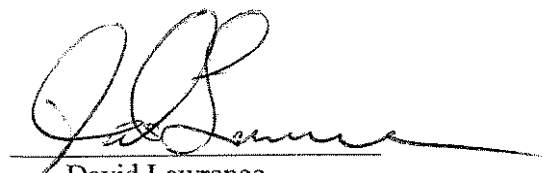
This Spill Prevention Control and Countermeasures (SPCC) Plan is fully supported by the management of Choto Marina on Ft. Loudon Lake, Tennessee. Choto Marina will implement this SPCC Plan as needed and update it due to any expansions, modifications, and/or improvements at this facility.



Mitchell Jones
Owner, CEO




Gregory Steele
Gen. Mgr.



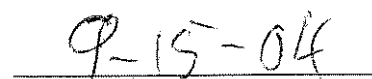
David Lawrence
Marina Superintendent



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